

CONSTITUTIONS
of
NATIONS

CONSTITUTIONS *of* NATIONS

The first compilation in the English language of the texts of the
constitutions of the various nations of the world, together
with summaries, annotations, bibliographies,
and comparative tables

VOLUME III
PORTUGAL to YUGOSLAVIA

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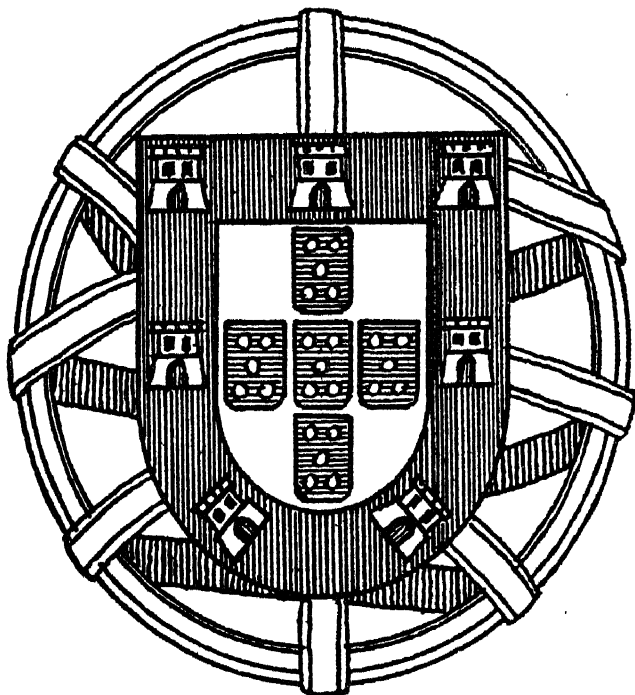
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PORTUGAL

SUMMARY

INTERNATIONAL STATUS

Portugal is not a member of the United Nations. It was neutral during World War II. It was a member of the League of Nations and signed the Paris Pact of 1928. It signed and ratified the Statute of the Permanent Court of International Justice and also accepted the optional clause relating to compulsory jurisdiction (Art. 36).¹ It is a member of the Postal Union and numerous other international organizations.²

¹ Portugal is not a party to the Statute of the International Court of Justice.

² See Table I.

Portugal has been an independent nation since the year 1147, except for an interval due to a dynastic union under the crown of Spain from 1580 to 1640.

The French invasion under Napoleon in 1807 forced the Prince Regent to remove the capital of the country to Brazil. He returned to Lisbon in 1821. There was civil war from 1828 to 1834. In 1910 a revolution ended the monarchy and a republic was proclaimed. During the next sixteen years there were sixteen revolutions and forty changes of ministry. In May, 1926, Marshal Gomes da Costa marched with the army on Lisbon and took over the government without firing a shot. General Carmona became President in 1926 and was twice re-elected by direct suffrage. Dr. Oliveira Salazar, who was appointed minister of finance in 1926 and again in 1928, became head of the government in 1932.

FORM OF NATIONAL GOVERNMENT

Portugal has a written constitution, promulgated April 11, 1933, and approved by national plebiscite, which states that Portugal is a "unitary and corporative republic."¹ The State is vested with the "right and duty" to "supervise the coordination and control of economic and social life",² and "the economic organization of the nation must . . . create a collective existence from which the State shall derive power and the citizens justice."³

A separate act⁴ provides for the government of the Portuguese colonies.

SOURCE OF SOVEREIGN POWER

Sovereignty is vested in the nation.⁵

RIGHTS OF THE PEOPLE

The Constitution guarantees equality before the law,⁶ the right to life and personal inviolability, freedom of religion, freedom to express thought, freedom of education, inviolability of domicile, secrecy of correspondence, personal liberty, freedom of association, the right of property and the right of petition.⁷ The family is especially protected.⁸

LEGISLATIVE DEPARTMENT

The Constitution provides for the National Assembly and the Corporative Chamber. The former is made up of one hundred and twenty deputies elected by the "citizen electors" for a term of four years.⁹ The Corporative Chamber consists of representatives of local autonomous bodies and social interests.¹⁰ It may only give opinions, advice, and suggestions regarding matters before the National Assembly.¹¹

¹ Const. of 1933, Art. 5.

⁴ See *infra*, p. 26 for text.

⁷ Id., Art. 8.

¹⁰ Id., Art. 102.

² Id., Art. 31.

⁵ Const. of 1933, Art. 71.

⁸ Id., Arts. 12-15.

¹¹ Id., Art. 103.

³ Id., Art. 29.

⁶ Id., Art. 5.

⁹ Id., Art. 85.

EXECUTIVE DEPARTMENT

Executive power is vested in the President elected by direct suffrage of the "citizen electors" for a term of seven years.¹ Relatives of the Kings of Portugal are ineligible.² The President is responsible to the nation, not the vote of the National Assembly.³

Provision is made for a council of state.⁴ The president of the council and ministers are appointed by the President⁵ and the former is responsible to the President of the Republic.⁶ The "government" is not dependent on the favorable vote of the National Assembly.⁷

JUDICIAL DEPARTMENT

Provision is made for a Supreme Court of Justice and other courts, whose judges are appointed for life and are irremovable.⁸ Only the National Assembly may pronounce on the constitutionality of laws.⁹

AREA, POPULATION, LANGUAGE

Portugal has an area of 35,582 square miles and an estimated population of 8,312,000. The language is Portuguese.

¹ Const. of 1933, Art. 72.

⁴ Id., Art. 83.

⁷ Id., Art. 112.

² Id., Art. 74.

⁵ Id., Art. 107.

⁸ Id., Arts. 116, 119.

³ Id., Art. 78.

⁶ Id., Art. 108.

⁹ Id., Art. 123.

POLITICAL CONSTITUTION of the PORTUGUESE REPUBLIC¹

August 1, 1935 as amended

PART I FUNDAMENTAL GUARANTEES

SECTION I

THE PORTUGUESE NATION

1. The territory of Portugal is that which at present belongs to it and comprises:

- (1) In Europe: the mainland and the archipelagos of Madeira and the Azores;
- (2) In West Africa: Cape Verde archipelago, Guinea, S. Tomé and Príncipe and their dependencies, S. João Baptista de Ajudá, Cabinda, and Angola;
- (3) In East Africa: Mozambique;
- (4) In Asia: the State of India and Macao and their respective dependencies;
- (5) In Oceania: Timor and its dependencies.

Sole paragraph. The nation does not renounce the rights which it has or may hereafter have over any other territory.

2. No part of the national territory may be acquired by any government or juridical entity of a foreign country, except for the purpose of establishing diplomatic or consular representation if there is reciprocity in favor of the Portuguese State.

3. The nation shall comprise all Portuguese citizens resident in or outside its territory, who shall be held to be subject to the State and Portuguese laws, without prejudice to the rules of international law applicable.

Sole paragraph. Without prejudice to the provisions of international law, foreigners sojourning or resident in Portugal shall also be subject to the State and to Portuguese laws.

4. The Portuguese nation shall constitute an independent State. In the domestic sphere, its sovereignty shall only admit the limitations of morality and law, and internationally, those restrictions imposed by conventions or treaties freely concluded, or by customary law freely accepted. Its duty shall be to co-operate with other states in the preparation and

¹ Revised version published in the supplement of the *Diário do Governo*, No. 176, 1st series, 1st August 1935, with amendment contained in law No. 1945 of 21st December 1936; translation published by Portuguese Government in 1937. Amendments of 18th December 1937, 23rd April 1938, and 17th September 1945; translated from Portuguese text published by Coimbra Editora, Limitada, in 1945.

adoption of measures in the interests of peace among peoples and the progress of humanity.

Sole paragraph. Portugal shall advocate arbitration as a means of settling international disputes.

5. The Portuguese State is a unitary and corporative republic founded on the equality of its citizens before the law, the free access of all classes to the benefits of civilization, and the participation of all the structural elements of the nation in its administrative life and the enactment of its laws.

Sole paragraph. Equality before the law includes the right of provision with public employment in conformity with capability or services rendered, and does not admit any privilege of birth, titular or other nobility, sex or position, subject, however, where women are concerned, to differences due to their nature and the welfare of the family and, in regard to the obligations and privileges of citizens, to differences imposed by varying circumstances or natural conditions.

6. It is the duty of the State:

(1) To promote unity of the nation and establish order according to law by determining and compelling respect for the rights and guarantees derived from morals, equity, or law, for the benefit of individuals, families, local autonomous bodies, and other corporate, public or private entities;

(2) To co-ordinate, instigate, and direct all social activities and to promote due harmony of interests, subject to those of a private nature being lawfully subordinated to the general interest;

(3) To strive for improvement in the condition of the least favored classes of society and to prevent their standard of life from falling below an adequate human minimum.

SECTION II

THE CITIZENS

7. The civil law shall determine the manner in which Portuguese citizenship is acquired and forfeited. A citizen shall enjoy the rights and guarantees laid down by the Constitution, but naturalized citizens shall be subject to the restrictions prescribed by law.

Sole paragraph. Foreigners resident in Portugal shall enjoy the same rights and guarantees, unless the law determines otherwise. This shall not apply to political and public rights which correspond to a duty toward the State, although, as regards public rights, reciprocity of advantages granted to Portuguese nationals by other States shall be observed.

8. The following constitute the rights and individual guarantees of Portuguese citizens:

(1) The right to life and personal inviolability.

(2) The right to good name and reputation.

(3) Liberty and inviolability of religious beliefs and practice, on the ground of which no one may be persecuted, deprived of a right or exempted from any obligation or civic duty. No one shall be compelled to answer questions concerning the religion which he professes, unless for statistical enquiry prescribed by law.

(4) The free expression of thought in any form.

(5) Freedom of education.

(6) Inviolability of domicile and secrecy of correspondence on conditions determined by law.

(7) Freedom of choice of profession, or nature of work, industry, or commerce, subject to the legal restrictions required for the public welfare and the exceptions which only the State and administrative bodies can grant according to the provisions of the law, for reasons of recognized public utility.

(8) No one shall be deprived of personal liberty or arrested without a charge being brought, except in the cases contemplated in paragraphs 3 and 4.

(9) No one shall receive a penal conviction except by virtue of a law of earlier date which declares the act or omission to be punishable.

(10) The right of examination, both sides being heard, and the accused being given the necessary guarantees for defense before and after the drawing up of the charge.

(11) No one shall suffer punishment by perpetual imprisonment, or the penalty of death, except, as regards the latter, during a state of belligerency with a foreign country, in which case the sentence must be carried out in the theater of war.

(12) There shall be no confiscation of goods or transfer of any punishment from the person of the delinquent.

(13) No one shall suffer imprisonment for failure to pay costs or stamps.

(14) Freedom of meeting and association.

(15) The right of property and the right to transfer it during life or owing to death, according to the conditions laid down by the civil law.

(16) There shall be no payment of taxes which have not been decreed in accordance with the Constitution.

(17) The right to reparation for all actual damage in conformity with the provisions of the law, which may also prescribe pecuniary reparation for wrongs of a moral character.

(18) The right of making representation or petition, claim or complaint, to government departments or any authorities, in defense of personal rights or general interests.

(19) The right of resistance to any order which may infringe individual guarantees, unless they have been legally suspended, and of repelling by force private aggression when recourse to public authority is impossible.

(20) Penal sentences shall be subject to revision, and the right of indemnification by the national treasury for loss and damage shall be assured to the convicted person or his heirs by measures to be defined by law.

1. The enumerations of the above rights and guarantees shall not exclude any others derived from the Constitution or the laws, it being understood that citizens should always exercise them without injuring the rights of third parties, or damaging the interests of society or the principles of morality.

2. Special laws shall control the exercise of the liberty of the expression of opinion, education, and meeting and association. As regards the first item, they shall prevent, by precautionary or restrictive measures, the perversion of public opinion in its function as a social force, and shall protect the moral integrity of citizens who, when libelled or abused in a periodical publication, shall have the right to have inserted in the same, free of charge, a correction or explanation, without prejudice to any other liability or proceedings prescribed by law.

3. Imprisonment without specific charge is authorized in cases of *flagrante delicto*, and for the following offenses when either committed, prevented, or attempted: those against the safety of the State; the counterfeiting of money, and forgery of bank-notes and government bonds; wilful homicide; burglary and robbery; theft, fraud, or breach of trust, when perpetrated by an habitual criminal; fraudulent bankruptcy; arson; the manufacture, possession, or use of explosive bombs and other similar appliances.

4. Except in the cases specified in the preceding paragraph, imprisonment in a public jail, or detention in a private residence or institution for lunatics, may only be effected on a written order from the competent authorities, and shall not be continued on the accused offering proper bail or bond in regard to residence, if allowed by law.

The exceptional safeguard of habeas corpus may be used against an abuse of authority in the circumstances prescribed in a special law.

9. All persons employed by the State, administrative bodies, and collective persons of administrative public utility, or by companies which have a contract with any of these, are guaranteed the right to their posts during the period of compulsory military service.

10. The State shall bestow distinctions of honor or awards on those citizens who become conspicuous by reason of their personal merit or civic or military deeds, and likewise on foreigners for international services; orders, decorations, medals, or diplomas shall be instituted by law for this purpose.

11. The sovereign organs are jointly and severally precluded from suspending the Constitution or limiting the rights therein granted, except in the cases contemplated in the same.

SECTION III

THE FAMILY

12. The State shall ensure the constitution and protection of the family as the source of the maintenance and development of the race, the primary basis of education, discipline, and social harmony, and, by its association and representation in the parish and the town, the foundation of all political and administrative order.

13. The constitution of the family is based upon:

- (1) Marriage and legitimate offspring;
- (2) Equality of the rights and duties of husband and wife in regard to the maintenance and education of their legitimate children;
- (3) The obligation to register the marriage and the birth of children.

1. The civil law shall determine the principles governing the persons and goods of husband and wife, parental authority and its revocation, the rights of succession in the direct or collateral line, and the right of maintenance.

2. Legitimate children shall be guaranteed the full rights necessary for the strength and unity of the family, and rights corresponding to their position shall also be recognized in the case of illegitimate children who can be adopted as offspring, and likewise children about to be born, particularly the right to maintenance, which shall be provided by those upon whom, after investigation, the duty is found to fall.

14. With the object of protecting the family it appertains to the State and local bodies:

- (1) To encourage the establishment of separate homes under healthy conditions and the institution of the family household;
- (2) To protect maternity;
- (3) To adjust taxation in accordance with legitimate family obligations and to promote the adoption of the family wage;
- (4) To assist parents in the discharge of their duty of instructing and educating their children, and to co-operate with them by means of public institutions for education and correction, or by encouraging private establishments destined for the same purpose;
- (5) To take all precautions likely to avert the corruption of morals.

15. The registration of the civil status of citizen is a matter pertaining to the State.

SECTION IV

CORPORATIVE ORGANIZATIONS

16. It shall be the duty of the State to authorize, unless prevented by existing legislation, all corporative organizations, for intellectual, social, and economic purposes, and to promote and assist their formation.

17. The principal aims of the corporations, associations, or organizations, referred to in the preceding article, shall be scientific, literary, or artistic, or physical training; relief, benevolence, or charity; and technical improvement or unification of interests.

Sole paragraph. The constitution of these bodies and the exercise of their functions shall be controlled by special regulations.

18. Foreigners domiciled in Portugal may participate in the corporative organizations referred to, on conditions to be determined by law; they shall not be allowed, however, to share in the exercise of the political rights granted to these bodies.

SECTION V

THE FAMILY, CORPORATIVE ORGANIZATIONS, AND AUTONOMOUS BODIES AS POLITICAL UNITS

19. Families shall have the exclusive right to elect the parish boards.

Sole paragraph. This right shall be exercised by the head of the family.

20. All the component parts of the nation shall be represented in the corporative organizations, through their appropriate organs, and it shall be their business to participate in the election of the municipal chambers and provincial boards and in the constitution of the Corporative Chamber.

21. Under the political organization of the State the parish boards shall participate in the election of the municipal chambers, who will in turn help to elect the provincial boards. Local autonomous bodies shall be represented in the Corporative Chamber.

SECTION VI

PUBLIC OPINION

22. Public opinion is a fundamental element of the politics and administration of the country; it shall be the duty of the State to protect it against all those agencies which distort it contrary to truth, justice, good administration, and the common welfare.

23. The press exercises a function of a public nature and may not therefore refuse to insert any official notices of normal dimensions, on matters of national importance, sent to it by the government.

SECTION VII

ADMINISTRATIVE ORDER

24. Public officials shall be at the service of the community and not at the service of any party or organization of private interests; it is their duty to respect the authority of the State and cause others to do so.

25. Employees of local autonomous bodies and collective persons of administrative public utility, and likewise persons who work for public utility undertakings, shall be subject to the rule prescribed in the preceding article.

26. Planned interruption of public services or those of collective concern shall involve the dismissal of the delinquents, apart from other liabilities which the law may prescribe.

27. No one shall be allowed to hold a plurality of offices in the employment either of the State or local bodies, or of both, except on the conditions contemplated by law.

Sole paragraph. Rules as to incompatibility, whether in regard to public offices, or to the exercise of other professions in conjunction with same, shall be determined by a special law.

28. All citizens shall be compelled to lend their services and co-operation to the State and local bodies in accordance with the laws, and to contribute toward public burdens according to their means.

SECTION VIII

THE ECONOMIC AND SOCIAL ORDER

29. The economic organization of the nation must provide the maximum production and wealth for the welfare of society, and create a collective existence from which the State shall derive power and the citizens justice.

30. The State shall regulate its economic relations with other countries according to the principle of appropriate co-operation, without prejudice to the commercial advantages to be obtained from particular countries, or the necessity for protection against external threats or attacks.

31. It shall be the right and duty of the State to supervise the co-ordination and control of economic and social life with the following objects:

(1) To establish a proper balance of the population, the professions, occupations, capital and labor;

(2) To protect the national economic system from agricultural, industrial, and commercial ventures of a parasitic nature, or of a character incompatible with the higher interests of human life;

(3) To secure the lowest price and the highest wage consistent with the fair remuneration of the other factors of production, by means of the improvement of technical methods, services, and credit;

(4) To develop the settlement of the national territories, protect emigrants, and regulate emigration.

32. The State shall encourage those private economic activities which, when the costs are relatively equal, are the most profitable, but without detriment to the social benefit conferred by small home industries and the protection due to them.

33. The State may intervene directly in the management of private economic operations only when it is essential to finance them and in order to secure greater social benefits than would otherwise be obtained.

Sole paragraph. State undertakings carried on for the purpose of profit, even if they are working on the basis of free competition, shall likewise be subject to the stipulation laid down in the latter part of the present article.

34. The State shall promote the formation and development of the national corporative economic system. Care shall be taken to prevent any tendency among its constituent parts to indulge in unrestrained competition with each other, contrary to their own just aims and those of society; they shall be encouraged rather to collaborate as members of the same community.

35. Property, capital, and labor shall fulfill a social duty in a system of economic co-operation and natural interest, and the law may determine the conditions of their use or exploitation in accordance with the common aim in view.

36. Labor, whether unskilled or specialized or technical, may be associated in an undertaking, in any form that circumstances may render advisable.

37. Only economic corporations which are recognized by the State may conclude collective labor contracts, in accordance with the law, and those made without their intervention shall be null and void.

38. Litigation relating to matters affecting collective labor shall be dealt with by special tribunals.

39. In their economic relation with one another, neither capital nor labor shall be allowed to suspend operations with the object of vindicating their respective interests.

40. It is the right and duty of the State to protect morality, the wholesomeness of food and drink, and public health.

Sole paragraph. The holding of a plurality of posts in private undertakings shall be discouraged as being contrary to public economy and morality.

41. The State shall promote and encourage community concerns, and provident, co-operative, and mutual benefit institutions.

SECTION IX

EDUCATION, INSTRUCTION AND NATIONAL CULTURE

42. Education and instruction shall be obligatory and the concern of the family in co-operation with public or private institutions.

43. The State shall officially maintain primary, complementary, secondary, and high schools, and institutions for advanced education.

1. Elementary, primary instruction is obligatory and may be given at home, or in private or State schools.

2. The arts and sciences shall be encouraged and their development, teaching and propaganda favored, so long as respect is maintained for the Constitution, the authorities and the co-ordinating activity of the State.

3. The instruction furnished by the State besides instilling new physical vigor and improving the intellectual faculties, aims at the formation of character, of professional values as well as of every moral and civic virtue, the former in accordance with the traditional principles of Christian doctrine and morals, of the country.

4. No authority shall be required for the teaching of religion in private schools.

44. The establishment of private schools on the lines of the State schools shall be free, but subject to State inspection; the schools may be subsidized by the State or authorized to grant diplomas if their *curricula* and the standard of their teaching staff are not inferior to those of the corresponding public institutions.

SECTION X

THE RELATIONS OF THE STATE WITH THE CATHOLIC CHURCH AND THE RÉGIME OF CULTS

45. The public and private practice of any religion shall be free. Religious bodies may organize themselves freely, in accordance with the rules of their hierarchy and discipline, in such manner as to form associations or organizations whose civil existence and juridical personality shall be recognized by the State.

Sole paragraph. This shall not apply to the practices of any religious body which are incompatible with the life and physical integrity of the human individual and with good morals.

46. Without prejudice to the provisions of concordats in the matter of the *Padroado*, the State shall maintain the régime of separation in relation to the Catholic Church and any other religion or cult practised within Portuguese territory, and the diplomatic relations between the Holy See and Portugal, with reciprocity of representation.

47. The State may not assign to any other purpose any chapel, building, appurtenance, or object of worship belonging to a religious body.

48. Public cemeteries shall be secular in character, and ministers of any religion may freely practise their respective rites therein.

SECTION XI

THE PUBLIC AND PRIVATE DOMAINS OF THE STATE

49. The public domain of the State shall comprise the following:

(1) Mineral deposits, medicinal mineral water springs, and other natural wealth below the surface;

(2) Maritime waters and their beds;

(3) Lakes, lagoons, and navigable watercourses, and waters on which floating operations can be performed, with their respective beds or channels, as well as those which shall be recognized, by special decree, to be of public utility as suitable for the production of electric power, national or regional, or for irrigation;

(4) Dykes opened up by the State;

(5) The aerial strata above the land, beyond such limits as the law fixes in favor of the owner of the surface;

(6) Railways of public importance of any kind, public highways, and roads;

(7) Territorial areas reserved for military defense;

(8) Any other property placed by law under the régime of the public domain.

1. The authority of the State over the property of the public domain and its use by the citizens shall be regulated by law and by the international conventions concluded by Portugal, the prior rights of the State and the acquired rights of private persons continuing to be reserved. The latter rights, however, shall be subject to expropriation to be determined by the public requirements upon payment of reasonable compensation.

2. Rocks and common earths, and materials commonly employed in buildings, shall be expressly excepted from the natural wealth specified in (1).

3. The State shall undertake the delimitation of those lands which are private and abut on the property of the public domain.

50. The administration of property on the mainland and in the adjacent islands and belonging to the private domain of the State appertains to the ministry of finance, except when it is expressly attributed to any other ministry.

51. No State property or rights which affect its prestige or the more important national interests may be alienated.

52. Artistic, historical, and natural monuments, and artistic objects officially recognized as such, shall be under the protection of the State, and their alienation in favor of foreigners is prohibited.

SECTION XII

NATIONAL DEFENSE

53. The State shall assure the existence and prestige of those military and naval institutions which are required by the supreme needs to defend national integrity and to maintain order and public tranquillity.

Sole paragraph. There shall be one military organization for the entire territory.

54. Military service shall be general and compulsory. The law shall determine the conditions of service.

55. The law shall regulate the general organization of the nation for war time, in accordance with the principle of a nation in arms.

56. The State shall promote, encourage, and assist civil institutions whose aim is to teach and discipline young persons in preparation for the fulfillment of their military and patriotic duties.

57. No citizen may hold or obtain employment from the State or local autonomous bodies unless he has fulfilled the duties to which he is liable under military law.

58. The State shall guarantee protection and pensions to persons who are incapacitated in military service in defense of the country or of order, and also to the families of individuals who lose their lives in such service.

SECTION XIII

ADMINISTRATION OF CONCERNS IN WHICH THE COMMUNITY MAY HAVE AN INTEREST

59. All undertakings which contemplate the utilization or exploitation of anything forming part of the State public domain shall be regarded as of interest to the community and shall be subject to special State régimes of administration, competition, supervision, or control, in accordance with the needs of public security, national defense, and economic and social relations.

60. Uniform rules, which shall not affect necessary particularities in points of minor importance, shall control the following:

(1) The establishment or alteration of land, river, maritime, and air communications, whatever their nature or purpose may be;

(2) The construction of works for the utilization of water supply or coal for the production of electric power, as well as the construction of grid systems for its transmission, supply, or distribution, and also general plant for agricultural hydraulic purposes;

(3) The exploitation of public services in connection with the above mentioned communications, works, and grid systems.

61. The State shall promote the execution of the public improvements mentioned in the preceding article, and particularly the development of the national merchant marine, bearing in mind, especially, the ties with the overseas dominions and those countries where Portuguese are numerous.

62. The tables of charges relating to the exploitation of public services by concessions shall be subject to control and legal inspection by the State.

SECTION XIV

STATE FINANCES

63. There shall be a single general State budget for the mainland and adjacent islands, showing the sum total of public receipts and expenditure and likewise those of the autonomous services. Detailed explanation of these may be published separately.

64. The general State budget shall be drawn up annually and put into effect by the government, in conformity with the legal provisions in force, and particularly the law of authorization contemplated in Article 91 (4).

65. The expenditure which corresponds to the legal and contractual obligations of the State, or is permanent owing to its nature or purpose, including interest charges and amortization of the public debt, must be taken as basis for fixing taxation and other State revenue.

66. The budget must state the measures which are essential for meeting the total expenditure.

67. Recourse may not be had to borrowing, unless for extraordinary expenditure for economic expansion, amortization of other loans, and indispensable increase of State patrimony, or vital requirements for the defense and preservation of the nation.

Sole paragraph. The necessary supplies may be obtained, however, by means of floating debt, representing receipts of the current administrative period, at the end of which the amount must be liquidated, or the treasury placed in a position to liquidate it through their funds.

68. The State may not reduce the capital or interest of the funded public debt to the detriment of the bondholders, but may convert it on equitable terms.

69. Sums due on account of deposits placed in State funds or its credit institutions may not be subjected to compulsory consolidation.

70. The law shall fix general principles in regard to the following matters:

- (1) Taxation;
- (2) Charges to be levied in the public services;
- (3) Administration and exploitation of State property and undertakings.

1. In the matter of taxation the law shall determine the incidence, rate, exemptions, where cause for such exists, and the claims and reliefs to be allowed in the taxpayer's favor.

2. The collection of taxes established for an indefinite time, or for a fixed period exceeding a single administrative period, shall be subject to the sanction of the National Assembly.

PART II**POLITICAL ORGANIZATION OF THE STATE****SECTION I****SOVEREIGNTY**

71. Sovereignty shall reside in the nation; its organs are the Head of the State, the National Assembly, the government and the courts of justice.

SECTION II**THE HEAD OF THE STATE***Chapter I*

**The Election of the President of the Republic
and His Prerogatives**

72. The Head of the State is the President of the Republic, elected by the nation.

1. The President shall be elected for seven years.

2. The election shall take place on the Sunday nearest to the sixtieth day before the end of each presidential term, by direct suffrage of the citizen electors.

3. The final scrutiny of the votes shall be made by the Supreme Court of Justice, which shall proclaim President the citizen obtaining the largest number of votes.

73. Only a Portuguese citizen, over thirty-five years of age, who has always possessed Portuguese nationality, and is in full enjoyment of his civil and political rights, may be elected President of the Republic.

Sole paragraph. Should the individual elected be a member of the National Assembly, he shall lose his mandate.

74. Relatives of the Kings of Portugal, within the sixth degree, are ineligible for the office of President of the Republic.

75. The President-elect shall take up his duties on the day on which his predecessor's mandate expires, and assume office before the National Assembly, using the following form of oath:

I swear to maintain and loyally and faithfully carry out the Constitution of the Republic, to obey the laws, to promote the general welfare of the nation, and to uphold and protect the integrity and independence of the Portuguese Fatherland.

76. The President of the Republic may not go abroad without the assent of the National Assembly and the government.

Sole paragraph. Failure to observe the provisions of this article shall with full force of law involve loss of office.

77. The President of the Republic shall receive a salary, to be fixed before his election, and may choose two State properties which he may wish to use as the presidential secretariat and as a private residence for himself and the members of his family.

78. The President of the Republic shall be directly and exclusively responsible to the nation for actions performed in the exercise of his duties. Both the exercise of the latter and his magistracy shall be independent of any vote of the National Assembly.

Sole paragraph. For crimes unconnected with the exercise of his functions, the President shall be answerable to ordinary courts of law, but only after conclusion of his mandate.

79. The President of the Republic may resign his office in a message addressed to the nation and published in the *Diário do Governo*.

80. Should the presidency of the Republic fall vacant owing to the death, resignation, or permanent physical disability of the President, or his absence in a foreign country without the assent of the National Assembly and the government, the new President shall be elected within a period not exceeding sixty days.

1. The President's permanent physical disability must be recognized by the council of state summoned for the purpose by the president of the council of ministers who, if the disability is confirmed, shall publish an announcement of the presidential vacancy in the *Diário do Governo*.

2. So long as the election contemplated in this article does not take place, or when, for some reason there is a temporary interruption of the presidential duties, the president of the council of ministers shall be invested with the attributes of the Head of the State, which shall be added to those pertaining to his office.

Chapter II

Attributes of the President of the Republic

81. It shall be the business of the President of the Republic:

(1) To appoint the president of the council and the ministers from among Portuguese citizens, and to dismiss them;

(2) Solemnly to open the first meeting of each legislative session and to address messages to the National Assembly, directing them to the president of same, who shall read them at the first meeting after receipt;

(3) To fix a day, in accordance with the electoral law, for a general election or by-election of deputies;

(4) To give constituent powers to the National Assembly and to submit to a national plebiscite such alterations of the Constitution as may affect the legislative functions or organic bodies of same, in accordance with Article 135 (1) and (2);

(5) To convoke the National Assembly in extraordinary session, in time of urgent public emergency, for the consideration of definite matters, and to adjourn its sessions, without prejudice to the duration fixed for the legislative session in each year;

(6) To dissolve the National Assembly when the supreme interests of the nation so require;

(7) To represent the nation and direct the foreign policy of the State; to conclude international conventions and negotiate treaties of peace, alliance, arbitration, and commerce, submitting them through the government to the National Assembly for approval;

(8) To grant pardons and commute punishments. The pardon may not be granted until half the punishment has been served;

(9) To promulgate and cause to be published the laws and resolutions of the National Assembly as well as the decree-laws and decrees laying down regulations, and to sign all individual decrees, which will otherwise be null and void.

82. The acts of the President of the Republic must be countersigned by the president of the council and by the appropriate minister or ministers, or otherwise they shall *ipso facto* be null and void.

Sole paragraph. Countersignatures are not required for:

- (i) The appointment and dismissal of the president of the council;
- (ii) Messages addressed to the National Assembly;
- (iii) The message of resignation from office.

Chapter III

The Council of State

83. The council of state shall act in conjunction with the President of the Republic and shall be composed of the following members:

- (1) The president of the council of ministers;
- (2) The president of the National Assembly;
- (3) The president of the Corporative Chamber;
- (4) The president of the Supreme Court of Justice;
- (5) The procurator-general of the Republic;
- (6) Five public men of outstanding ability, appointed for life by the Head of the State.

84. The council of state shall be heard by the President of the Republic before he exercises the attributes referred to in Article 81 (4), (5), and (6), and in the sole paragraph of Article 87, and in all grave emergencies of the State's existence. It may likewise be convoked whenever the President may deem it necessary.

SECTION III

THE NATIONAL ASSEMBLY

Chapter I

Constitution of the National Assembly

85. The National Assembly shall consist of one hundred and twenty deputies, elected by the direct suffrage of the citizen electors, and the duration of its mandate shall be four years.

1. The necessary qualifications for deputies, and the organization of the electoral colleges and election procedure, shall be determined by a special law.

2. No one may be a member of the National Assembly and of the Corporative Chamber at the same time.

3. Vacancies occurring in the National Assembly, when they reach the number fixed by the electoral law, up to one-fifth of the legal number of deputies, shall be filled by means of by-elections, the new mandates expiring at the end of the legislature.

4. Deputies may resign, but the effectiveness of a resignation is subject to acceptance by the Assembly or its president, according to whether it is presented during or between sessions. A resignation, when accepted, dates from its acceptance.

86. It shall be the business of the National Assembly to examine and recognize the powers of its members, elect its committee, draw up its own regulations and determine its internal discipline.

87. On the dissolution of the National Assembly elections must be held within sixty days, under the electoral law in force at the time of the dissolution. The new chambers meet within thirty days following the comple-

tion of the electoral proceedings, unless the legislative session of that year has been concluded, and continue for a full legislature, without reckoning the period in which they have functioned in order to complete the previous legislative session, and without prejudice to the right of dissolution.

Sole paragraph. Should the supreme interests of the country render it advisable, the period of sixty days fixed in this article may be extended to six months.

88. On the completion of the final ordinary legislative session of the four-year period, the National Assembly shall remain in being, until the result of the new general elections has been verified.

Chapter II

Members of the National Assembly

89. The members of the National Assembly shall enjoy the following immunities and prerogatives:

(a) They shall be inviolable as regards the opinions and votes which they give in the exercise of their mandate, subject to the limitations laid down in paragraphs 1 and 2.

(b) They cannot be called upon to serve on juries, or as experts or witnesses, without the sanction of the Assembly.

(c) Neither can they be detained or remain arrested without the assent of the Assembly, except for an offense involving a major penalty or its equivalent in the scale of punishments, and, in that case, when *in flagrante delicto* or by virtue of judicial order.

(d) If any deputy is prosecuted for a criminal offense and held for sentence or the equivalent, the judge shall notify the fact to the Assembly who, except in the case contemplated in the latter part of (c) of this article, shall decide whether or not the deputy should be suspended for the purpose of the continuation of the proceedings.

(e) They shall have the right to remuneration on conditions which shall be determined by the electoral law.

1. Inviolability in respect of their opinions and votes shall not exempt members of the National Assembly from civil and criminal liability for libel, slander and abuse, outrage on public morality, or public incitement to crime.

2. The National Assembly may withdraw the mandates of those deputies who express opinions opposed to the existence of Portugal as an independent State, or in any way instigate to the violent overthrow of the social and political order.

3. The immunities and prerogatives set forth in (b), (c), (d), and (e) shall only be effective during the actual exercise of legislative duties.

90.¹ Members of the National Assembly will forfeit their mandate if they:

(1) Accept from the government or from any foreign government remunerated employment or payment for service;

(2) Exercise their respective positions during the functioning of the National Assembly, if they are either civil or military public functionaries;

(3) Occupy posts in the administrative, executive, or inspection services which are not exercised by government appointment, or as legal or technical advisers in undertakings or companies, formed for the purposes of special State contracts or concessions, or which hold a State privilege not granted by the general law, or receive a State subsidy or guarantee of profit or interest;

¹ Translation kindly provided by the American Embassy, Lisbon.

- (4) Enter into contracts with the government;
- (5) Act as concessionaires, contractors, or partners in firms contracting for public concessions, auctions or undertakings, or participate in State financial operations.

1. The following are exempt from dispositions of Item No. (1) above:
 - a) Temporary diplomatic missions and military commissions or commands which do not involve residence outside of the continent;
 - b) Appointments because of merit, legal promotions, conversion on a permanent basis of those wages which were only temporary and appointments to equivalent positions resulting from remodeling of services;
 - c) Those appointments which by law are made by the government after examination or on the proposal of entities which are legally entitled to recommend or select the functionary as well as appointments for positions and posts which can only be filled by a certain class or category of functionaries.
2. The verification by the Assembly or its president of the facts referred to in Nos. (1) and (2) has the same effect as the acceptance of the resignation.
3. The case referred to in Nos. (4) and (5) also involve the nullification of the contracts or acts provided therein.

Chapter III

Attributes of the National Assembly

91. It shall be the business of the National Assembly:

- (1) To make, interpret, suspend, and revoke laws;
- (2) To safeguard the observance of the Constitution and the laws and consider the acts of the government or the administration;
- (3) To receive the accounts for each financial year, which shall be laid before it with the report and resolution of the court of accounts (if the accounts have been appraised by this court), and other details necessary for their consideration;
- (4) To authorize the government, up to 15th December of each year, to collect the State revenue and meet public expenditure for the ensuing financial period, and to determine in the appropriate law of authorization the principles which shall govern that part of the budget dealing with expenditure of amounts not fixed in accordance with any existing laws;
- (5) To authorize the government to effect loans and other credit operations, not included in the floating debt, and to fix the general terms on which they may be carried out;
- (6) To authorize the Head of the State to make war, should recourse to arbitration be impossible or of no avail, except in the case of actual or imminent aggression by foreign forces, and to make peace;
- (7) To approve international conventions and treaties, in accordance with the provisions of Article 81 (7);
- (8) To declare a state of siege, with total or partial suspension of the constitutional guarantees, in one or more places in the national territory, in the case of actual or imminent aggression by foreign forces, or when public order and safety are seriously disturbed or threatened;
- (9) To define the boundaries of the nation's territories;
- (10) To grant amnesties;
- (11) To take cognizance of the messages from the Head of the State;
- (12) To deliberate regarding the revision of the Constitution, before the lapse of the ten-year period;
- (13) To bestow legislative powers on the government.

92. Laws voted by the National Assembly must be confined to ratification of the general fundamentals of juridical rules, but the constitutional legality of any provisions contained therein cannot be contested on the ground of violation of this principle.

93. The following, however, shall, perforce, be matters of law:

- (a) The organization of national defense;
- (b) The establishment and suppression of public services;
- (c) The weight, value, and denomination of coins;
- (d) The standard of weights and measures;
- (e) The establishment of banks or institutions of issue and the rules to which the fiduciary circulation must be subject;
- (f) The organization of the courts.

Chapter IV

Activities of the National Assembly and Promulgation of Laws and Resolutions

94. The National Assembly shall hold its sessions for a period of three months, beginning on 25th November of each year, without prejudice to the provisions of Articles 75, 76 and 81, No. 5.

Sole paragraph. The president of the National Assembly, when he considers it appropriate, may extend its effective functioning by one month or interrupt the same without prejudice to the period fixed in this article for the legislative session, provided that the termination thereof shall be not later than 30th April.

95. The National Assembly shall sit in plenary sessions, and its resolutions shall be taken by absolute majority vote, a majority of the legal number of its members being present; and it may organize itself into permanent commissions or establish special commissions for specified purposes.

1. The sessions shall be public, unless otherwise decided by the Assembly or its president.

2. The commissions shall continue their activities only during the effective functioning of the Assembly, except when such activities should be continued by reason of their nature or of the special purpose for which the commissions are established.

3. The ministers and under-secretaries of state may take part in the sessions of the permanent commissions.

96. The members of the National Assembly may, apart from the effective functioning thereof, hear, consult, or request information from any official corporation or station in regard to matters of public administration; public stations, however, may not reply without previous authorization from the respective minister, whose sanction may only be lawfully withheld for reasons of State secrecy.

97. The initiative in legislation is vested in the government, or in any of the members of the national Assembly without distinction, but the members may not present bills nor proposed amendments involving increase of State expenditure or decrease of State revenue created by prior laws.

98. Bills passed by the National Assembly shall be sent to the President of the Republic for promulgation as law within the following fifteen days.

Sole paragraph. Bills not promulgated within the said period shall be submitted for reconsideration by the National Assembly and, if they are then passed by a two-thirds majority of the number of members in actual service, the Head of the State may not refuse to promulgate them.

99. Promulgation shall be effected in the following form:

In the name of the nation, the National Assembly decrees and I promulgate the following law (or resolution).

Sole paragraph. The following shall be promulgated as resolutions:

- (a) The ratifications of decree-laws;
- (b) The decisions referred to in Article 91 (3), (6), (7), and (12).

100. Motions or bills laid before the National Assembly and not discussed in the respective session shall be brought up again in the following sessions of the same legislature; should they be finally rejected, they may not be brought up again in the same legislative session, except when a dissolution of the National Assembly has taken place.

101. The standing orders of the Assembly shall lay down:

- (a) That the agenda may not be deviated from for any matter without prior notice of at least twenty-four hours;
- (b) The conditions for presentation of bills.

Chapter V

The Corporative Chamber

102. There shall be a Corporative Chamber composed of representatives of local autonomous bodies and social interests. These shall be regarded according to their essential branches—administrative, moral, cultural, and economic—and the law shall designate those bodies on which such representation is incumbent or the method of their selection and the duration of their mandate.

1. When offices become vacant whose holders have, in that capacity, a seat in the Corporative Chamber, the respective interests shall be represented by the persons required by law or statute to replace them. The same principle shall apply to cases of disability.

2. Except in the case contemplated in the preceding paragraph, vacancies occurring in the Corporative Chamber shall be filled in the manner in which the persons being replaced were appointed.

3. The provisions of Article 89 and its paragraphs shall apply to the members of this chamber, the authorization or decision of the president being, however, substituted for the decisions referred to in paragraphs (b), (c) and (d) of the said article.

103. It shall be the business of the Corporative Chamber to report and give an opinion on all motions or bills and on all international conventions or treaties brought before the National Assembly, prior to the commencement of their discussion by the latter.

1. The opinion shall be given within thirty days or within such period as the government or the Assembly shall fix, if the matter is considered urgent.

2. Should no opinion have been sent to the National Assembly on the lapse of the periods referred to in the preceding paragraph, the discussion may be opened immediately.

3. If the Corporative Chamber while advising, on general grounds, the rejection of a bill, shall suggest its replacement by another one, the government or any of the deputies may adopt the suggested bill, which shall be

discussed jointly with the original one, without further reference to the Corporative Chamber. If the latter suggests specific changes in the proposal or bill, any deputy may adopt such changes as his own.

104. The Corporative Chamber shall function in plenary sessions or in separate specialist sections; two or more or all of the sections may, however, meet together, should the matter under examination so demand it.

1. The president of the council, the minister or under-secretary of state for corporations, if any, the appropriate minister or ministers, their representatives, and the deputy presenting the motion or bill, may take part in the discussions regarding same.

2. The sessions of the Corporative Chamber shall not be public.

105. The government may consult the Corporative Chamber on general decrees to be published or bills to be presented to the National Assembly; determine that the work of the sections shall be carried on or accomplished during postponements, interruptions and intervals of the legislative sessions; and request the convocation of all or some of the sections in order to make any communication to them.

Sole paragraph. The discussion of bills in the National Assembly shall not require a new consultation of the Corporative Chamber if the latter has been heard by the government.

106. The provisions of Article 86, except as regards the examination of powers, which shall be entrusted to a special commission elected by the Corporative Chamber, and of Article 101, (a) and (b), shall apply to the said chamber, and the faculty conferred by Article 96 on the members of the National Assembly shall likewise be admitted in the case of the corresponding sections of the chamber.

SECTION IV

THE GOVERNMENT

107. The government shall consist of the president of the council, who may conduct the affairs of one or more ministries, and the ministers or those who may be substituted for them, in matters within their competence, when they are absent from the mainland and interim ministers have not been appointed to the respective posts.

1. The president of the council shall be appointed and dismissed at will by the President of the Republic. The ministers and under-secretaries of state, if there be such, shall be appointed by the President of the Republic on the recommendation of the president of the council, who shall countersign their appointments, and likewise the resignations of retiring ministers.

2. The functions of the under-secretaries of state shall cease on the resignation of the respective ministers.

108. The president of the council shall be responsible to the President of the Republic for the general policy of the government, and shall co-ordinate and direct the activities of all the ministers, who shall be responsible to him politically for their acts.

109. It shall be the business of the government:

(1) To countersign the acts of the President of the Republic;

(2) To make decree-laws and, in cases of urgency, to approve international conventions and treaties;

(3) To draw up decrees, regulations, and instructions for the due execution of the laws;

(4) To superintend public administration as a whole, causing the laws and resolutions of the National Assembly to be carried out, exercising supreme control over the acts of administrative bodies and collective persons of administrative public utility, and executing all measures relating to the appointment, transfer, resignation, retirement, superannuation, dismissal, or reinstatement of civil or military officials, subject to the right of appeal of the parties concerned to the competent tribunals.

1. All measures of the President of the Republic and the government which involve an increase or decrease of revenue or expenditure shall be countersigned by the minister for finance.

2. Legislative authorizations may not be utilized more than once, except those which, by virtue of their particular terms, cover repeated applications. Nevertheless, the government may apportion their use until they are expended.

3. If the government, during the effective functioning of the National Assembly, publishes decree-laws outside the cases of legislative authorization, these shall be subject to ratification, which shall be deemed to be granted unless, within the first ten sessions after their publication, at least five deputies demand that such decree-laws be submitted to the judgment of the Assembly.

If ratification is refused, the decree-law shall cease to be valid from the day on which notification to this effect, issued by the president of the Assembly, appears in the *Diário do Governo*.

Ratification may be granted with amendments; in this case the decree shall be considered as converted into a bill, without prejudice to its validity, and sent to the Corporative Chamber, unless the same has already been consulted.

4. When a law is not self-executing, the government shall issue the respective decrees within six months from its publication unless some other period is fixed.

5. The appointment of governors of the colonies shall be made by the ministers in council.

6. The appointment, transfer, relieving of duties, retirement, pensioning, demission, or reinstatement of the president of the Supreme Court of Justice, of the procurator general of the Republic, of diplomatic or consular agents, and of general or colonial governors, shall take the form of a decree.

110. Ministers may not exercise any other public duties, or any private employment, in addition to their portfolios.

1. Ministers shall be subject to the remaining prohibitions and provisions of Article 90.

2. Members of the National Assembly or of the Corporative Chamber who accept the office of minister or under-secretary of state shall not forfeit their mandates, but may not sit in their respective chambers.

111. The council of ministers shall meet when its president, or the Head of the State, considers it necessary. When the said president, or the Head of the State, shall think fit, the meeting shall be under the presidency of the latter, and it shall be obligatory for him to preside when he has to use the powers conferred upon him in Article 81 (2), (3), (4), (5), (6), and (8).

112. The government shall depend exclusively on the confidence of the President of the Republic, and their retention of power shall not depend on the fate suffered by their bills, or on any vote of the National Assembly.

113. The president of the council shall transmit to the president of the National Assembly the bills to be submitted to the latter, together with any explanations requested of the government, or which the government may deem appropriate.

Sole paragraph. In the case of matters affecting the higher interests of the country, the president of the council may appear in the National Assembly to attend to same.

114. Each minister shall incur political, civil, and criminal liability for any acts which he may legalize or execute. Ministers shall be tried by the ordinary tribunals for acts involving civil or criminal liability.

Sole paragraph. Should any minister be prosecuted for a criminal offense, and the proceedings be in any stage up to and including judgment, the Supreme Court of Justice in full session, the procurator-general of the Republic being present, shall decide whether the minister shall be tried immediately, in which case his suspension shall be decided on, or whether the sentence shall be served on the completion of his tenure of office.

115. Criminal liability attaches to the acts of ministers and under-secretaries of state and government agents which are directed against:

- (1) The political existence of the nation;
- (2) The Constitution and the established political system;
- (3) The free exercise of the organs of sovereignty;
- (4) The enjoyment and exercise of political and individual rights;
- (5) The internal security of the country;
- (6) The integrity of the administration;
- (7) The custody and constitutional employment of public monies;
- (8) The law dealing with public accounts.

Sole paragraph. Conviction for any of these crimes involves the loss of office and incapacity to exercise public functions.

SECTION V

THE COURTS

116. The judicial power shall be exercised by ordinary and special courts.

The ordinary courts are the Supreme Court of Justice and the courts of second and first instance, which shall have the territorial and material jurisdiction determined by law.

117. The establishment of special courts with exclusive competence to try a certain category of crime or certain categories of crimes, shall not be allowed, unless the crimes are fiscal, social, or directed against the safety of the State.

118. The State shall be represented at the courts by the Public Ministry.

119. Judges of the ordinary courts shall be appointed for life and are irremovable; the conditions of their appointment, promotion, dismissal, suspension, transfer, and allocation outside the cadre shall be fixed by law, and they may not accept any other office of profit from the government, but this shall not prejudice their requisition for permanent or temporary commissions.

120. Judges shall not be held responsible for the judgments pronounced by them, except in cases which the law shall specify.

121. The hearing of the courts shall be public, except in the special cases prescribed by law, and whenever publicity is contrary to order, the interests of the State, or good morals.

122. In the execution of their decisions and judgments, the courts shall have the right to the collaboration of other authorities, should they require it.

123. In cases submitted for judgment, the courts may not apply laws, decrees, or any other ordinances which transgress the provisions of this Constitution or violate the principles therein contained.

Sole paragraph. The National Assembly, on its own initiative or on that of the government, may alone pronounce on the organic or formal constitutionality of a rule of law set forth in acts promulgated by the President of the Republic, and the said Assembly shall determine the effects of any constitutional illegality, without detriment, however, to the situations created by cases already judged.

124. Penalties and precautionary measures which aim at the protection of society and, as far as possible, the social rehabilitation of the offender, shall be introduced as a means of preventing and checking crime.

SECTION VI

POLITICAL AND ADMINISTRATIVE DIVISIONS AND LOCAL AUTONOMOUS BODIES

125. The territory of the mainland shall be divided into communes, formed of parishes, and grouped into districts and provinces, the boundaries of all such areas being fixed by law.

1. The communes of Lisbon and Oporto shall be subdivided into wards, and the latter into parishes.

2. The division of the territory of the adjacent islands and its administrative organization shall be regulated by a special law.

126. The administrative bodies shall be the municipal chambers, parish boards, and provincial boards.

127. The administrative life of the local autonomous bodies is subject to inspection by agents of the government and the resolutions of the relative administrative bodies may be subject to the authorization or require the approval of other organizations or authorities and be submitted to *referendum*.

128. In order to execute their resolutions, and for other purposes specified in the laws, administrative bodies shall have a president or committees appointed according to the terms of the same laws.

129. The resolutions of the administrative bodies may only be amended or annulled in the cases and in the manner contemplated in the administrative laws.

130. Administrative bodies shall have financial autonomy under conditions to be determined by law, but municipal chambers shall be bound to distribute a part of their revenue among the parishes, for the purpose of rural improvements, such part to be fixed by law.

131. Systems of local taxation shall be drawn up in a manner which shall not prejudice the fiscal organization or the finances of the State, or impede the circulation of produce and merchandise between the districts of the country.

132. The administrative bodies may only be dissolved in such cases and in such manner as provided for in administrative laws.

SECTION VII

THE PORTUGUESE COLONIAL EMPIRE

133. The provisions of the Colonial Act shall be regarded as constitutional matter and the government must publish the Act afresh with the amendments required by the present Constitution.

COMPLEMENTARY PROVISIONS

Revision of the Constitution

134. The Constitution shall be revised every ten years, and the National Assembly whose mandate includes the period of revision shall have constituent powers for the said purpose.

1. The revision may be anticipated by five years if this is agreed to by two-thirds of the members of the National Assembly in actual service, and, in this case, the new ten-year period shall be counted from the date of the revision so anticipated.

2. No motions or bills for the revision of the Constitution may be accepted for discussion unless the proposed amendments are clearly defined.

135. Notwithstanding the provisions of the preceding article, should the public welfare urgently demand it, the Head of the State after consulting the council of state, may by a decree signed by all the ministers:

1. Determine that the National Assembly to be elected shall assume constituent powers and revise such parts of the Constitution as are specified in the relative decree;

2. Submit to a national plebiscite the alterations of the Constitution which refer to the legislative function or organs of same, such approved alterations to enter into force as soon as the definitive results of the plebiscite are published in the *Diário do Governo*.

Special and Transitory Provisions

136. A transitional régime shall be adopted for the execution of the sole paragraph of Article 53, with such temporary restrictions as are deemed essential.

137. Until such time as the corporative organization of the country is completed, temporary measures shall be adopted to give effect to the principle of organic representation laid down in Chapter V of Part I.

138. The President of the Republic now in office is recognized by this Constitution, and his term of office shall be seven years, to be counted from the date on which he assumed the presidency.

139. The first National Assembly shall have constituent powers.

140. Laws and decrees with the force of law which have been or may be published up to the first meeting of the National Assembly shall continue in operation and retain their validity as laws in so far as they contain nothing explicitly or implicitly contrary to the principles contained in the present Constitution.

141. The laws and decree-laws referred to in the preceding article may nevertheless be revoked by regulatory decrees in all matters which concern the internal organization of the services and do not alter the juridical position of private individuals or the statute of civil servants.

Sole paragraph. The restrictions laid down in this article shall not include laws and decree-laws which prescribe that which constitutes legislative matter in them, nor that which is excepted by reason of paragraph 1 of Article 70 and Article 93.

142. Until the laws required for the execution of the provisions of Chapter VI of Part II have been published, local administration shall continue to be regulated by the legislation in force, including that which concerns the appointment and dismissal of the administrative commissions of local autonomous bodies.

143. The present Constitution shall enter into force after being approved by a national plebiscite and as soon as the final verification of the latter is published in the *Diário do Governo*.

COLONIAL ACT OF PORTUGAL¹

Part I

General Guarantees

1. All those provisions of the Political Constitution of the Republic which, from their nature, do not refer exclusively to the mother country, shall be applicable to the colonies, provided that they are compatible with the principles set forth in the following articles.

2. It is the essential attribute of the Portuguese nation to fulfill the historic function of possessing and colonizing overseas dominions and of civilizing the native populations inhabiting them, as also that of exercising the moral influence ascribed to it by the *Padroado* in the East.

3. The overseas dominions of Portugal are termed colonies and constitute the Portuguese Colonial Empire.

The territory of the Portuguese Colonial Empire is that defined in Nos. (2) to (5) of Article 1 of the Constitution.

4. Rights in respect of liberty and the security of person and property are guaranteed to nationals and aliens resident in the colonies, within the terms of the law. Both nationals and aliens may be refused entry into any colony, and both may be expelled in accordance with the regulations if their presence gives rise to serious inconvenience of domestic or international character. Their only appeal against such decisions is to the government.

5. The component parts of the Portuguese Colonial Empire stand together in solidarity, with each other and with the mother country.

6. The solidarity of the Portuguese Colonial Empire comprises particularly the obligation of contributing in an adequate manner toward securing the aims of all its members and the integrity and defense of the nation.

7. The State shall not alienate in any manner any part of the colonial territories and rights of Portugal, without prejudice to the rectification of frontiers when approved by the National Assembly.

¹ Text published in the supplement of the *Diário do Governo* No. 176, 1st Series of 1st August 1935; translation published by Portuguese Government in 1937. Amendments of 17th September 1945 translated from Portuguese text published by Coimbra Editora, Limitada, in 1945.

8. In the colonies a foreign government may not acquire any land or building for the housing of consular representation, except after authorization by the National Assembly and in a place the choice of which is accepted by the minister for the colony.

9. The following are not permitted:

(1) Concessions of land bordering the seacoast, whether inside or outside bays, within a continuous zone of eighty metres beyond the maximum level of high tide;

(2) Concessions of land bordering navigable lakes and rivers open to international navigation, within a continuous zone of eighty metres beyond the normal level of the waters;

(3) Concessions of land within a distance of not less than one hundred metres on either side of the area of constructed or projected railway stations;

(4) Other concessions of land which may not be granted in conformity with the laws at present in force or which may be promulgated.

Sole paragraph. In exceptional cases, when expedient in the interests of the State:

(a) The temporary occupation of plots of land situated within the zones mentioned in (1), (2) and (3) of this article may be permitted, in accordance with the law.

(b) The said plots may be comprised within the area of inhabited places under the terms of the law, with the express approval of government after consultation with the departments concerned.

(c) Concessions may be granted, in conformity with the law, in respect of plots included within the area of inhabited places, the express approval of the government after consultation with the department concerned being in this case also an indispensable condition.

10. In areas intended for coastal settlements in the colonies or for their natural expansion, concessions or sub-concessions of land shall be subject to the following regulations:

(1) They may not be granted to aliens without the approval of the council of ministers;

(2) They may not be granted to any individuals or companies unless for improvements which they have to make to their urban, industrial, or commercial establishments.

1. Private transfers of ownership of lands are not conditional upon previous authorization on the part of the government. If however, the transfer is contrary to the terms of (1) and (2) it may be canceled by simple order of the governors-general or colonial governors published in the *Boletins Officiais* within six months of the month in which they shall have become acquainted with the fact, without prejudice to cancellation at any time, by ordinary means under the terms of the following paragraph.

2. Rights secured to the State by this and the previous article are imprescriptible.

3. The limits of the areas of coastal settlements and of the areas destined for their natural expansion shall be fixed by measures published in the *Boletim Oficial* of the colony concerned.

11. In future the administration and exploitation of commercial ports in the colonies are reserved to the State. A special law shall regulate the exceptions which are to be allowed in each port in respect of certain establishments or services.

12. The State shall not grant to individual or collective enterprises in any colony:

- (1) The exercise of the prerogatives of public administration;
- (2) The privilege of establishing or fixing any dues or taxes, even though it be in the name of the State;
- (3) The right of possessing lands or mine-prospecting areas with power to grant sub-concessions to other enterprises.

Sole paragraph. In colonies where there at present exist concessions of the nature referred to in this article, the following shall be observed:

- (a) They may not be prolonged or renewed either wholly or in part.
- (b) The State shall exercise its rights of rescision or redemption under the terms of the laws or contracts applicable.
- (c) The State shall keep in view the complete administrative unification of the colony.

13. Concessions granted by the State, even when they are dependent on foreign capital, shall always be subjected to conditions which ensure nationalization and other advantages to the economic system of the colony.

Special enactments having the same purpose in view shall regulate this matter.

14. In the application of Articles 8, 9, 10, 11, and 12, rights acquired before the present date shall be reserved.

Part II

The Natives

15. The State guarantees the protection and defense of the natives of the colonies in accordance with the principles of humanity and sovereignty, the provisions of this Part, and the international conventions which are at present in force or may come into operation.

The colonial authorities shall prevent and punish in accordance with the law all abuses against the persons and property of natives.

16. The State shall establish public institutions and encourage the creation of private institutions, in both cases Portuguese, to uphold the rights of natives or to render them assistance.

17. The law guarantees to the natives, in the terms stated therein, the ownership and possession of their lands and crops, and this principle must be respected in all the concessions granted by the State.

18. The labor of natives in the service of the State or in that of administrative bodies shall be remunerated.

19. The following shall be prohibited:

- (1) All systems under which the State undertakes to furnish native laborers to any enterprises working for their own economic development;
- (2) All systems under which the natives in any territorial area are compelled to furnish labor to the said enterprises for any consideration.

20. The State may only compel natives to labor on public works of general benefit to the community, in occupations the proceeds of which will be enjoyed by them, in execution of judicial decisions of a penal nature or for the fulfillment of fiscal obligations.

21. The system of contracting native labor shall be based on individual liberty and on the right to a fair wage and assistance, the public authorities intervening only for purposes of supervision.

22. Attention shall be paid in the colonies to the stage of evolution of the native people. There shall be special statutes regarding natives

which, under the authority of Portuguese public and private law, shall establish for them juridical rules in keeping with their individual, domestic, and social usages and customs, provided that these are not incompatible with morality and the dictates of humanity.

23. The State shall ensure in all its overseas territories liberty of conscience and the free exercise of the various religions, subject to the restrictions necessitated by rights and interests of the sovereignty of Portugal, the maintenance of public order, and consonance with international treaties and conventions.

24. Portuguese Catholic missions overseas, being an instrument of civilization and national influence, and establishments for the training of staffs for service therein and in the Portuguese *Padroado*, shall possess juridical personality and shall be protected and assisted by the State as educational institutions.

Part III

The Political and Administrative System

25. The colonies shall be governed by special enactments in accordance with the terms of this Part.

26. Administrative decentralization and financial autonomy are guaranteed to the colonies so far as these are compatible with the Constitution, their stage of development, and their own resources, without prejudice to the provisions of Article 47.

Sole paragraph. In each of the colonies political unity shall be maintained by the existence of a single capital and a single general or colonial government.

27. The following are within the exclusive competence of the National Assembly, following proposals by the minister for the colonies submitted in accordance with Article 113 of the Constitution:

(1) Enactments establishing or altering the form of government of the colonies;

(2) Enactments which include:

(a) The approval of treaties, conventions, or agreements with foreign nations;

(b) The authorization of loans or other contracts which necessitate securities or special guarantees;

(c) A definition of the powers of the government of the mother country and those of the colonial governments in regard to the area and duration of concessions of land or other concessions which involve exclusive or special privileges.

Sole paragraph. In cases of extreme urgency, the government, with the affirmative vote of the council of the Colonial Empire recorded at a session presided over by the minister for the colonies, may legislate on the matters mentioned in (1) and in (a) and (b) of (2) of the present article, whenever the National Assembly is not in session.

28. Enactments not included in the terms of the preceding Article, which regulate matters of common interest to the mother country and to all or some of the colonies, shall be in the form of a law, a decree-law or a simple decree, in the terms of the Constitution, and must always contain the declaration that they are to be published in the official bulletins of the colonies in which they are to be executed; those which regu-

late matters of exclusive interest to the colonies shall be within the competence of the minister for the colonies or of the government of the colony, in accordance with the provisions of the enactments referred to in (1) of the foregoing Article. The following, however, is laid down:

(1) It is incumbent upon the minister for the colonies to establish a colonial military organization in harmony with the principles of national defense and without prejudice to special requirements.

(2) Agreements or conventions which duly authorized colonial governments negotiate with other colonies, Portuguese or foreign, shall be subject to the approval of the minister for the colonies.

(3) Colonial governments may not establish or modify regulations relating to matters included in Articles 15 to 24 and (1) of this Article.

1. The constitutionality of the provisions of the respective enactments may not be pleaded as the basis for the violation of the first part of this article.

2. The enactments published in the exercise of the legislative authority of the minister for the colonies shall be in the form of a promulgated decree and shall be countersigned in accordance with the Constitution except when the minister is acting in the colonial territory.

3. The normal legislative rights of the minister for the colonies shall only be exercised after consultation with the council of the Colonial Empire, except in cases of urgency and on other occasions indicated in the law. This council shall be the superior consultative body in respect of matters of policy and colonial administration and shall fulfill, in legal form, the functions of a supreme administrative tribunal in relation to the Portuguese Colonial Empire.

29. Colonies shall only be governed by colonial governors-general or governors, neither of whom may be entrusted, in any way, with powers which under the Colonial Act appertain to the National Assembly, the government or the minister for the colonies, save such limited powers as may be granted to them by rightful authority in connection with certain specified matters in exceptional circumstances.

Sole paragraph. No persons interested in the direction or management of enterprises having their headquarters or economic activities in the respective colony may be appointed governors.

30. The legislative function of colonial governors, within the sphere of their competence, shall always be exercised under the supervision of the mother country, and as a rule, with the consent of the government councils, on which there shall be adequate representation in harmony with the social conditions.

31. Executive functions in each colony shall be undertaken, subject to the supervision of the minister for the colonies, by the governor who in the cases contemplated in the enactments mentioned in (1) of Article 27, is assisted by a consultative body composed of members of the government council.

32. Municipal and local administrative institutions shall be represented in the colonies by municipal chambers, municipal commissions, and local boards, according to the importance, development, and European population of the respective area.

1. The creation or abolition of municipal chambers is an attribute of the governor of the colony, with the affirmative vote of the government council and the express approval of the minister for the colonies.

2. Foreigners habitually resident in a colony for a period of not less than five years, who are able to read and write Portuguese, may be members of the municipal chambers or commissions and local boards up to a maximum of one-third of their members.

33. It shall be a supreme duty and matter of honor for the governor, in each of the Portuguese dominions, to uphold the rights of sovereignty of the nation and to promote the welfare of the colony in accordance with the principles laid down in the Colonial Act.

Part IV

Economic and Financial Guarantees

34. The mother country and the colonies, owing to their moral and political ties, have as the basis of their economic existence a natural community and solidarity which is recognized by law.

35. The economic systems of the colonies shall be established in accordance with the needs of their development, just reciprocity between them and the neighboring countries, and the rights and legitimate requirements of the mother country and the Portuguese Colonial Empire.

36. It shall appertain to the mother country, without prejudice to the guaranteed decentralization, to ensure by means of her decisions the requirements of the interests which, under the terms of the foregoing article, must be considered as a whole in the economic systems of the colonies.

37. Each of the colonies possesses juridical personality, with power to acquire, contract, and take legal proceedings.

38. Each colony shall have its own assets and liabilities, and it appertains to it to dispose of its revenue and assume responsibility for its expenditure, its acts, contracts, and debts within the terms of the law.

39. The movable and immovable property in each colony which, within the limits of its territory, does not belong to others, the property which the colony may have legally acquired outside of its own territory, the public and private securities which it may at present or in the future possess, the dividends, annuities, or interests and shares in profits or of any other nature which may be due to it shall be considered to be the property of the colony.

Sole paragraph. Shares and bonds of concessionary companies belonging to a colony may only be transferred or pledged to the national treasury or the Caixa Geral de Depósitos, Crédito e Previdência, and the revenues derived from such securities as a result of any financial operation may also only be assigned to the same institutions.

40. Each colony shall have its separate budget, drawn up according to a uniform plan and in accordance with the principles laid down in Articles 63 and 66 of the Constitution.

1. The general budget of a colony shall include only expenditures or receipts authorized by legal enactments and shall not become effective without the express authorization or approval of the minister for the colonies.

2. When the budget cannot enter into force at the beginning of the economic year, the budget of the preceding year and the credits sanctioned during that year to meet new permanent charges shall continue provisionally in force from month to month, but only in respect of ordinary expenditure.

41. The enactments referred to in (1) of Article 27 shall fix:

(1) The expenditure for account of the colonies and that for account of the mother country;

(2) The rules and restrictions to which colonial governments shall be subject by way of safeguard to their finances.

42. Accountancy in respect of the colonies shall be organized in the same manner as that in respect of the mother country, with such modifications as may be indispensable on account of special circumstances.

43. The colonies shall forward their annual accounts to the minister for the colonies within the periods fixed by law.

44. The mother country shall afford financial assistance to the colonies on provision of the necessary guarantees.

45. The colonies may not contract loans in foreign countries.

Sole paragraph. When it is necessary to have recourse to foreign markets to obtain capital for the government of a colony, the financial operation shall be concluded on account of the mother country exclusively, the colony not assuming any responsibility toward the said markets, but assuming it fully toward the mother country, to which the colony shall give the necessary guarantees.

46. The rights of the treasury of the mother country, or of the Caixa Geral de Depósitos, Crédito e Previdência, in connection with the past or future debts of the colonies, are imprescriptible.

47. The financial autonomy of the colonies shall be subject to such occasional restrictions as may be indispensable should a serious situation develop in regard to their finances or to the dangers accruing to the mother country as the result of same.

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RUMANIA

SUMMARY

INTERNATIONAL STATUS

Rumania is not, at the time of our going to press, a member of the United Nations. It signed the Three Power Pact for mutual co-operation with Germany, Italy, and Japan on November 23, 1940. It declared war on the USSR on June 28, 1941, and on Britain and the United States in December of that year. It accepted the armistice terms of these three powers on August 23, 1944, and signed a treaty of peace with them on February 10, 1947.

It was a member of the League of Nations and signed the Pact of Paris of 1928 for the renunciation of war. It signed and ratified the Statute of the Permanent Court of International Justice of 1921 and accepted

the optional clause (Article 36). It is not a party to the Statute of the International Court of Justice of 1945. It is a member of the Postal Union and of other international organizations.¹

Rumania was formed by the union of the two principalities of Wallachia and Moldavia in 1859. The Treaty of Berlin of 1878 proclaimed its independence from Turkish control. In 1916 Rumania entered the first World War on the side of the Allies. It submitted to the Treaty of Bucharest of May 7, 1918, by which it became a satellite of Germany, but entered the war against Germany again on November 9 of that year. By decisions of the Paris Peace Conference of 1919, it gained new territories, including Bessarabia, Bukowina, Transylvania, Crisana, Maramuresh, and a part of Banat, which increased the total area from 53,489 to 122,282 square miles. It recognized the loss of Bessarabia and Northern Bukowina to the USSR in the treaty of peace of 1947.

In 1927, on the death of King Ferdinand, Michael became king with a regency, owing to the renunciation of the throne on the part of his father, Carol. The latter returned in 1930 and the regency was abolished. In 1940, Carol abdicated again and Michael became King once more. Michael renounced the throne, under pressure, in the spring of 1948, and Rumania was proclaimed a popular republic under a new constitution on April 13, 1948.

FORM OF NATIONAL GOVERNMENT

"The People's Republic of Rumania is a popular, unitary, independent and sovereign state."²

SOURCE OF SOVEREIGN POWER

"The whole power of the State is derived from the people and belongs to the people."³

RIGHTS OF THE PEOPLE

The Constitution guarantees equality of all citizens before the law;⁴ the right of suffrage and eligibility to office of all citizens except those who are not legally responsible and those who are deprived of civil and political rights by decision of the qualified authorities in accordance with the law;⁵ the rights of citizens to work,⁶ leisure,⁷ and education;⁸ the right of non-Rumanian nationalities to use their own language;⁹ social protection and medical assistance;¹⁰ freedom of conscience and religion;¹¹ individual freedom;¹² inviolability of the home;¹³ freedom of the press, of speech, of assembly, meetings, processions, and demonstrations;¹⁴ the right of association except against the democratic order established by

¹ See Table I.

⁴ Id., Art. 16.

⁷ Id., Art. 20.

¹⁰ Id., Art. 25.

¹³ Id., Art. 29.

² Const. of 1948, Art. 1.

⁵ Id., Art. 18.

⁸ Id., Art. 22.

¹¹ Id., Art. 27.

¹⁴ Id., Art. 31.

³ Id., Art. 3.

⁶ Id., Art. 19.

⁹ Id., Art. 24.

¹² Id., Arts. 28, 30.

the Constitution;¹ secrecy of correspondence;² and the right of asylum to foreigners persecuted for democratic, scientific, or cultural activity or for participation in the struggle for national liberation.³

The land is said to belong "to those who work it."⁴ Work is said to be the duty of every citizen,⁵ and "the State grants support to all working people in order to defend them against exploitation and to raise their standard of living."⁶

LEGISLATIVE DEPARTMENT

The legislative power is vested in the Great National Assembly of the People's Republic of Rumania,⁷ elected for a term of four years in accordance with a separate electoral law.⁸ The Great National Assembly is the supreme organ of state authority.⁹ It elects from its own membership a Presidium, consisting of a president, three vice-presidents, a secretary, and fourteen members,¹⁰ which performs specified legislative functions subject to accounting to the assembly.¹¹ Laws passed by the assembly are signed by the president and secretary of the Presidium and come into force on the third day after their publication in the official monitor, or on the date shown in the text.¹²

EXECUTIVE DEPARTMENT

The highest executive and administrative organ is the government, consisting of the president of the council of ministers, one or more vice-presidents of the council, and the ministers,¹³ whose number and duties are prescribed by the Great National Assembly.¹⁴ The government is responsible to the assembly and, between sessions of the assembly, to the Presidium.¹⁵ Ministers may be appointed from the membership of the assembly and may attend all sessions of the assembly, voting if they are members.¹⁶

JUDICIAL DEPARTMENT

There is a Supreme Court, whose members are appointed by the Presidium on the recommendation of the government.¹⁷ All courts except the Supreme Court include, as a rule, people's assessors.¹⁸ Special courts may be set up by law.¹⁹

AREA, POPULATION, LANGUAGE

The area of Rumania is 91,584 square miles. Its population is about 15,700,000. The Rumanian language is compulsory in all schools, but other languages are permitted in the courts and elsewhere.²⁰

¹ Const. of 1948, Art. 32.

⁴ Id., Art. 9.

⁷ Id., Art. 38.

¹⁰ Id., Arts. 40, 41.

¹³ Id., Art. 66.

¹⁶ Id., Art. 71.

¹⁹ Id., Art. 87.

² Id., Art. 33.

⁵ Id., Art. 12.

⁸ Id., Art. 47.

¹¹ Id., Arts. 42-44.

¹⁴ Id., Art. 67.

¹⁷ Id., Arts. 86, 89.

²⁰ Id., Art. 24.

³ Id., Art. 35.

⁶ Id., Art. 12.

⁹ Id., Art. 37.

¹² Id., Art. 56.

¹⁵ Id., Art. 69.

¹⁸ Id., Art. 88.

CONSTITUTION of the PEOPLE'S REPUBLIC OF RUMANIA¹

April 13, 1948

Title I

The People's Republic of Rumania

Art. 1. The People's Republic of Rumania is a popular, unitary, independent, and sovereign state.

Art. 2. The People's Republic of Rumania was created in the struggle waged by the people, headed by the working class, against fascism, reaction, and imperialism.

Art. 3. In the People's Republic of Rumania, the whole power of the State is derived from the people and belongs to the people.

The people exercise their power through representative bodies elected on the basis of universal, direct, and equal suffrage by secret ballot.

Art. 4. The people's representatives in all the bodies of state power are responsible to the people and are liable to be revoked upon the will of the electors in conditions established by law.

Title II

Social and Economic Structure

Art. 5. In the People's Republic of Rumania, the means of production belong either to the State, being the possession of the whole people, or to co-operative organizations, or to private physical or juridical persons.

Art. 6. All mineral resources, mines, forests, waters, sources of natural power, communication lines by rail, land, water, and sea, post, telegraph, telephone, and radio belong to the State, as common possessions of the people.

The method of passing into the property of the State any of the resources specified in the preceding paragraph, which were in private hands on the day the present Constitution came into force, will be laid down in law.

Art. 7. The common possessions of the people constitute the material basis of the economic progress and national independence of the People's Republic of Rumania.

It is the duty of every citizen to defend and develop the common possessions of the people.

Art. 8. Private property and the right of inheritance are acknowledged and guaranteed by law.

Private property acquired through work and savings enjoys special protection.

¹ Translation kindly supplied by the Rumanian Embassy in Washington, D. C.

Art. 9. The land belongs to those who work it.

The State protects the working peasant's holdings. It encourages and gives support to village co-operation.

In order to stimulate the improvement of agriculture, the State may create state-owned agricultural enterprises.

Art. 10. Expropriations for reasons of public utility can be made in accordance with the law and under payment of rightful compensation as established by law.

Art. 11. When required in the general interest, the means of production, banks, and insurance companies, which are the property of private physical or juridical persons, may become state property, i.e. the possession of the people, under conditions established by law.

Art. 12. Work is the fundamental factor of the economic life of the State. It is the duty of every citizen. The State grants support to all working people in order to defend them against exploitation and to raise their standard of living.

Art. 13. The State grants protection to private initiative which serves the general interest.

Art. 14. The internal and foreign trade is regulated and controlled by the State and it is carried out through state, private and co-operative commercial enterprises.

Art. 15. The State directs and plans the national economy in order to develop the economic power of the country, to ensure the welfare of the people, and to safeguard the national independence.

Title III

Fundamental Rights and Duties of the Citizens

Art. 16. All citizens of the People's Republic of Rumania, irrespective of sex, nationality, race, religion, or educational qualifications are equal before the law.

Art. 17. Any advocacy or manifestation of racial or national hatred is punishable by law.

Art. 18. All citizens, irrespective of sex, nationality, race, religion, educational qualifications, profession, including servicemen, magistrates, and civil servants, have the right of electing and of being elected to all the organs of the State.

All citizens who have reached the age of eighteen have the right to vote, and all citizens who have reached the age of twenty-three have the right to be elected.

Disqualified persons, deprived of civil and political rights, if pronounced as such by the qualified authorities in accordance with the law, do not enjoy the right to vote.

Art. 19. The citizens have the right to work. The State gradually insures this right by the planned organization and development of the national economy.

Art. 20. The citizens have the right to leisure. This right to leisure is ensured by regulating working hours, by paid vacations, in accordance with the law, by organizing rest homes, sanatoriums, clubs, parks, sport grounds, and institutions especially designed for this purpose.

Art. 21. Women are accorded equal rights with men in all spheres of public, economic, social, cultural, private-law, and political life.

For equal work women have the right to equal pay as men.

Art. 22. In the People's Republic of Rumania all citizens have the right to education.

The State ensures the achievement of this right by organizing and developing elementary education, compulsory and free of charge, by state scholarships granted to meritorious pupils and students, and by organizing and developing vocational and technical education.

Art. 23. The State encourages and supports the development of science and art and organizes research institutes, libraries, printing houses, theaters, museums, and music academies.

Art. 24. In the People's Republic of Rumania, the right of using their native language and of organizing education of every grade in their own language is ensured to all nationalities living in the country. Administrative and judicial authorities in the districts inhabited also by nationalities other than Rumanian will also use, orally and in writing, the language of the nationality concerned, and will appoint officials from the nationality concerned, or from another nationality who know the language of the local population.

The teaching of the Rumanian language and literature is compulsory in schools of every grade.

Art. 25. The State takes care of public health by creating and developing health services and by encouraging and protecting physical training.

The State assures social protection and medical care in cases of sickness, accidents, and disablements resulting from or occurring at work, or in the defense services of the country, as well as maintenance in old age, both for civil servants and for employees of private enterprises, whose contribution and rights are established by law.

Art. 26. Marriage and the family enjoy the protection of the State.

Mothers and children under eighteen years of age enjoy special protection as established by law.

The parents have the same duties toward children born out of wedlock as toward those born in wedlock.

All acts affecting the civil status are only valid if contracted before the state authorities.

Art. 27. Freedom of conscience and freedom of religious worship are guaranteed by the State.

Religious creeds are free to organize themselves and can freely function provided their ritual and practice are not contrary to the Constitution, public security, or morality.

No religious denomination, congregation, or community can open or maintain institutions of general education, but may only run special schools for training personnel necessary to the cult under state control.

The Rumanian-Orthodox Church is autocephalous and unitary in its organization.

The way of organizing and functioning of the religious creeds will be established by law.

Art. 28. The individual liberty of the citizen is guaranteed.

No person may be placed under arrest and imprisoned longer than forty-eight hours without a warrant of the public prosecutor, or of the examining magistrature as established by law, or under an authorization of the judicial authorities in accordance with the law.

Art. 29. The domicile is inviolable. No person may enter the home or residence of a citizen without his consent, except in his presence and on the basis of a written warrant from the appropriate authority, or in case of flagrante delicto.

Art. 30. No person may be sentenced or detained to serve a sentence except under a judicial decision according to the law.

Art. 31. Freedom of the press, of speech, of assembly, of mass meetings, of street processions, and demonstrations is guaranteed.

The exercising of these rights is ensured by the fact that the means of printing, the paper, and meeting halls are placed at the disposal of the working people.

Art. 32. The citizens have the right of association and organization, if the aims pursued are not directed against the democratic order established by the Constitution.

Any association of fascist or anti-democratic character is forbidden and punishable by law.

Art. 33. The secrecy of correspondence is guaranteed. Only in the case of court instruction, under martial law, or in case of mobilization, correspondence may be inspected.

Art. 34. Every citizen has the right to petition, as well as the right to ask the legislature to bring suit against any civil servants for offenses committed in the exercise of duty.

Art. 35. The People's Republic of Rumania grants the right of refuge to all foreigners persecuted for their democratic activities, for their struggle for national liberation, for their scientific or cultural activities.

Art. 36. The defense of their country is a duty of honor for all citizens.

Military service is obligatory for all citizens according to the law.

High treason — violating the oath of allegiance, entering the service of the enemy, impairing the military power of the State — constitutes the gravest crime against the people and is punishable with all the severity of the law.

Title IV

The Supreme Organ of State Authority

Art. 37. The supreme organ of state authority in the People's Republic of Rumania is the Great National Assembly of the People's Republic of Rumania.

Art. 38. The Great National Assembly of the People's Republic of Rumania is the only legislative body of the People's Republic of Rumania.

Art. 39. Within the direct competence of the Great National Assembly of the People's Republic of Rumania fall:

- (1) The electing of the Presidium of the Great National Assembly of the People's Republic of Rumania.
- (2) The forming of the government of the People's Republic of Rumania.
- (3) The amending of the Constitution.
- (4) The establishing of the number, attribution and appellation of ministries, and the abolishing, merging or giving new appellation to the existing ministries.
- (5) The voting of the State budget and of the closing of the budgetary year, the fixing of taxes and of the ways of their collection.
- (6) The questions of war and peace.
- (7) The decision to consult the people by referendum.
- (8) The granting of amnesty.

Art. 40. The Great National Assembly elects from its members the Presidium of the assembly.

The Presidium is elected by one-half plus one of the total number of deputies.¹

Art. 41. The Presidium of the Great National Assembly of the People's Republic of Rumania consists of one president, three vice-presidents, one secretary, and fourteen members directly elected by the Great National Assembly.

Art. 42. The Presidium as a whole, or any of its members, may be removed at any time by the Great National Assembly by a majority as laid down in Article 40.

Art. 43. The Presidium of the Great National Assembly of the People's Republic of Rumania is responsible for its whole activity to the Great National Assembly.

Art. 44. The Presidium of the Great National Assembly of the People's Republic of Rumania has the following functions:

(1) To summon the Great National Assembly of the People's Republic of Rumania in ordinary and special sessions;

(2) To issue decrees;

(3) To enact the laws passed by the Great National Assembly of the People's Republic of Rumania;

(4) To exercise the right of pardon and to commute punishments;

(5) To confer the decorations and medals of the People's Republic of Rumania;

(6) To represent the People's Republic of Rumania in international relations;

(7) To appoint and recall, at the proposal of the government, the diplomatic representatives of the People's Republic of Rumania;

(8) To receive the credentials and the letters of recall from the diplomatic representatives of foreign countries accredited to it;

(9) To appoint and remove ministers on the recommendation of the Prime Minister during the intervals between the sessions of the Great National Assembly of the People's Republic of Rumania;

(10) To establish military ranks, diplomatic ranks, and honorary titles on the recommendation of the government;

(11) To make and sanction civil service appointments on recommendation of the ministers concerned or of the government, in accordance with the law;

(12) To declare, in the interval between sessions of the Great National Assembly of the People's Republic of Rumania, on the recommendation of the government, a state of war and partial or general mobilization, in case of aggression against the People's Republic of Rumania, or against another state toward which she has mutual defense obligations ensuing from international treaties;

(13) To ratify or denounce international treaties on the recommendation of the government;

(14) To settle any question submitted to it by the Great National Assembly of the People's Republic of Rumania and to carry out any functions which may be vested in it by law.

Art. 45. The Presidium of the Great National Assembly of the People's Republic of Rumania takes valid decisions by simple majority of its members.

Decrees will be signed by the president and the secretary of the Presidium of the Great National Assembly of the People's Republic of

¹ Translator's Note: The deputies are the people's representatives. (See Article 47.)

Rumania. If they are prevented from signing, the president will be replaced by one of the vice-presidents, and the secretary by one of the members designated by the Presidium from its ranks.

Art. 46. After the mandate of the Great National Assembly of the People's Republic of Rumania expires, or in case of its dissolution before term, the Presidium of the Great National Assembly of the People's Republic of Rumania continues until the election of a new Presidium.

Art. 47. The Great National Assembly of the People's Republic of Rumania is elected for a period of four years. It is composed of representatives of the people (députés), elected according to the procedure established by electoral law.

Art. 48. The Great National Assembly of the People's Republic of Rumania meets in ordinary sessions at least twice a year, each session lasting until the end of the proceedings.

The assembly is convened by decree of the Presidium of the Great National Assembly of the People's Republic of Rumania.

Art. 49. The Great National Assembly of the People's Republic of Rumania may be convened in extraordinary sessions by decree of the Presidium, at the request of not less than one-third of the deputies.

Art. 50. After the validation of the deputies, the Great National Assembly of the People's Republic of Rumania elects a bureau which will conduct the proceedings, consisting of one president, three vice-presidents, and secretaries. The bureau of the Great National Assembly of the People's Republic of Rumania is elected for each session of the Great National Assembly of the People's Republic of Rumania.

The proceedings of the Great National Assembly will be presided over by the president, or by one of the vice-presidents, of the bureau, in accordance with the regulations drawn up by the Great National Assembly of the People's Republic of Rumania.

Art. 51. The presence of one-half plus one of the total number of deputies will constitute a quorum. Valid decisions will be taken by simple majority of deputies present, except in cases where the Constitution or the regulations of the Great National Assembly of the People's Republic of Rumania provide for a different number.

Art. 52. Voting may be done by secret vote, by raising of hands, or by acclamation, according to the decision of the Great National Assembly of the People's Republic of Rumania.

Art. 53. The Great National Assembly of the People's Republic of Rumania declares the validity of the election of deputies. The vote of a deputy is valid even prior to the examination of the validity of his mandate.

Art. 54. Deputies whose mandate has been declared valid take the following oath to the Great National Assembly of the People's Republic of Rumania: "I swear to serve the people and the People's Republic of Rumania with all my devotion and capacity to work, to defend and respect the Constitution and the laws of the country; to keep state secrets and defend the interests of the people and the State, the democratic liberties and the independence of the country."

The same oath will be taken by members of the Presidium and the members of the government on taking up office.

Art. 55. The legislative initiative belongs to the government. Not less than one-fifth of the total number of deputies may also introduce legislation.

Art. 56. The laws, after having been voted by the Great National Assembly of the People's Republic of Rumania, are signed by the president and secretary of the Presidium, and are published in the official monitor. A law comes into effect on the day indicated in the text, or three days after its publication in the official monitor.

Art. 57. The sessions of the Great National Assembly are public, except in cases where the assembly decides to hold secret sessions.

Art. 58. The Great National Assembly of the People's Republic of Rumania has the right to investigate and inquire into any sphere of the People's Republic of Rumania, by means of commissions elected from its ranks.

All state authorities and organs, as well as private persons, are bound to give every information and to put at the disposal of such commissions any document required by them.

Art. 59. No deputy can be detained, arrested, or prosecuted without the consent of the Great National Assembly of the People's Republic of Rumania during the sessions, or of the Presidium of the Great National Assembly of the People's Republic of Rumania between sessions, for any offense, except in cases of *flagrante delicto* and in such cases the authorization of the Great National Assembly or of the Presidium must be obtained forthwith.

Art. 60. The Great National Assembly of the People's Republic of Rumania is considered dissolved on the expiration of the mandate on which it was elected. The Great National Assembly of the People's Republic of Rumania can dissolve before this date.

Art. 61. In case of war or in other exceptional circumstances, the Great National Assembly of the People's Republic of Rumania can prolong its mandate for the duration of the exceptional situation.

Art. 62. In case war breaks out, or another exceptional circumstance arises, during the time when the Great National Assembly of the People's Republic of Rumania is dissolved, the Presidium of the dissolved Great National Assembly of the People's Republic of Rumania will convene it again, and the assembly thus convened may prolong its mandate in accordance with Article 61.

Art. 63. Elections for a new Great National Assembly of the People's Republic of Rumania must be held not later than three months after dissolution.

Art. 64. Deputies receive a salary fixed by the Great National Assembly of the People's Republic of Rumania.

Art. 65. Every deputy has the right of addressing questions or interpellating the government or each of the ministers. The Prime Minister or the minister thus questioned or interpellated must reply at the same sitting or at another, fixed by the Great National Assembly of the People's Republic of Rumania.

Title V

The Organs of State Administration: The Council of Ministers and the Ministries

Art. 66. The highest executive and administrative organ in the People's Republic of Rumania is the government.

The government consists of the president of the council of ministers (Prime Minister), one or more vice-presidents and ministers, who together form the council of ministers.

Art. 67. The ministries and their functions are determined by the Great National Assembly of the People's Republic of Rumania in accordance with Article 39, paragraph 4.

Art. 68. The Presidium of the Great National Assembly of the People's Republic of Rumania, on the recommendation of the council of ministers, may appoint assistant ministers for any ministry.

Art. 69. The government is responsible and accountable to the Great National Assembly of the People's Republic of Rumania for its activities, and, in the interval between sessions, to the Presidium of the Great National Assembly of the People's Republic of Rumania.

Art. 70. The members of the government take the oath to the Presidium of the Great National Assembly of the People's Republic of Rumania.

Art. 71. Ministers will be appointed from the deputies or from persons not belonging to the ranks of the Great National Assembly of the People's Republic of Rumania. Ministers who are not appointed from the ranks of the Great National Assembly of the People's Republic of Rumania may take part in the debates of the assembly, but are not allowed to vote.

Art. 72. The government is in charge of the conduct of the state administration.

It co-ordinates and gives general instructions to the departments concerned, directs and plans the national economy, draws up the state budget, maintains public order and the security of the State.

The government conducts the general policy of the State in the sphere of international relations.

It organizes and equips the armed forces. The government may organize and conduct special services of any kind for certain spheres of activity, directly depending on the council of ministers.

The council of ministers may annul ministerial decisions which are not in accordance with the Constitution or the laws.

The Presidium of the Great National Assembly of the People's Republic of Rumania may annul decisions taken by the council of ministers which are not in accordance with the Constitution or the laws.

The decisions of the council of ministers are obligatory over the whole territory of the People's Republic of Rumania.

Art. 73. Ministers are responsible for unlawful acts committed in the execution of their duties.

A special law will regulate the method of prosecuting and judging ministers.

Art. 74. Ministers conduct their departments on the basis of the general instructions given by the council of ministers. Ministers make decisions in accordance with the laws which are binding on all citizens.

Title VI

Local Organs of State Power

Art. 75. The territory of the People's Republic of Rumania is divided for administrative purposes into: communes, districts, counties, and regions.

Modifications of these divisions can be made by law.

Art. 76. The local organs of the state power are the local people's councils.

Art. 77. The local people's councils are representative organs, elected for a four-year term by universal, direct, equal, and secret ballot.

Art. 78. The local people's councils direct and conduct the local economic, social, and cultural activities, in accordance with the laws and instructions issued by the superior administrative organs.

The local people's councils draw up and put into practice the economic plan and the local budget, taking into consideration the national, general plan and the general budget of the State; they ensure the good administration of local assets and enterprises, maintain public order, defend the rights of the citizens, ensure the application and respect of the laws, as well as take the necessary measures for improving the local administration.

Art. 79. In carrying out their duties the local people's councils rely on the initiative and wide participation of the popular masses.

Art. 80. The local people's councils report to the people.

Art. 81. The local people's councils meet in ordinary and extraordinary working sessions.

Art. 82. The directing and executive organs of the local people's councils are the executive committees. These are elected from the ranks of the respective local people's councils and are formed and function as established by law.

Art. 83. The executive committees are responsible to the respective local people's councils.

Art. 84. The people's councils and the local executive committees carry out their activities in accordance with the laws. They are subordinate to the superior people's councils and the superior executive committees, as well as to the central administrative organs of the State.

Art. 85. Sections of the people's councils to deal with various activities may be created, but their activities will be subordinate to the people's councils and the executive committees, under which they function. Regarding special technical guidance, they will be subordinate to the corresponding sections of the superior people's councils as well as to the appropriate central administrative organs of the State.

Title VII

Judicial Organs and the Office of the Public Prosecutor

Art. 86. The judicial instances are: the Supreme Court, one for the whole country, the courts of appeal, the tribunals, and the people's courts.

Art. 87. Certain special instances may be created by law for specific purposes.

Art. 88. In all instances, except in the Supreme Court, the judicial proceedings take place with the assistance of people's assessors, except in cases where the law provides otherwise.

Art. 89. The first president, the presidents, and the members of the Supreme Court are appointed by the Presidium of the Great National Assembly of the People's Republic of Rumania, on the recommendation of the government.

Art. 90. The Supreme Court supervises the activities of all judicial instances and organs as established by law.

Art. 91. In all judicial instances proceedings are public, except in cases or circumstances provided by law.

Art. 92. The right of defense before all instances is guaranteed.

Art. 93. The judges of all grades must, in the exercise of their duties, be guided only by the law and apply the law equally to all citizens.

Art. 94. The organization and the functioning of the judicial instances, as well as the way of appointing and removing judges at all stages, will be determined by law.

Art. 95. In the People's Republic of Rumania, the office of the public prosecutor supervises the observance of penal laws, both by civil servants and by the other citizens.

Art. 96. The office of the public prosecutor especially supervises the prosecution and punishment of crimes committed against the democratic order and liberties, economic interests, national independence, and sovereignty of the Rumanian State.

Art. 97. The office of the public prosecutor consists of one general public prosecutor of the People's Republic of Rumania and several public prosecutors.

The organization, the competence, and the functioning of the office of the public prosecutor will be determined by law.

Art. 98. The general public prosecutor is appointed by the Presidium of the Great National Assembly of the People's Republic of Rumania on the recommendation of the government.

Title VIII

Coat of Arms, Seal, Flag, and Capital

Art. 99. The coat of arms of the People's Republic of Rumania represents mountains covered with forests, over which the sun rises. In the center there is an oil derrick, and around the coat of arms there is a crown made of spikes of wheat.

Art. 100. The state seal bears the coat of arms of the country.

Art. 101. The flag of the People's Republic of Rumania is made of the colors: blue, yellow, and red, in vertical stripes. In the center is the coat of arms of the country.

Art. 102. The capital of the People's Republic of Rumania is the city of Bucharest.

Title IX

Amendment of the Constitution

Art. 103. The Constitution of the People's Republic of Rumania may be amended in part or as a whole on the recommendation of the government or of one-third of the members of the Great National Assembly of the People's Republic of Rumania.

Art. 104. The bill amending the Constitution is considered passed if voted by two-thirds of all members of the Great National Assembly of the People's Republic of Rumania.

Title X

Transitory Dispositions

Art. 105. All existing codes and laws will be revised to agree with the Constitution.

From the day the Constitution comes into force by its publication in the official monitor, all provisions of the law, decrees, regulations and all other provisions contrary to the stipulations of the Constitution are abolished.

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SAN MARINO

SUMMARY

INTERNATIONAL STATUS

San Marino is not a member of the United Nations. It was not a member of the League of Nations or a party to the Paris Pact, or the Statute of the Permanent Court of International Justice. It is a member of the Postal Union and a few other international organizations.¹

San Marino was neutral until September 21, 1944, when it declared war on Germany nine days after it was invaded by the latter. On the following day the British captured the capital city and freed the Republic of German troops.

¹ See Table I.

San Marino claims to be the oldest State in Europe, dating from the fourth century. Its institutions and series of statutes date from the twelfth century, when the proprietors of the abbey of that name, having declared that they were the vassals of none, formed themselves into a commune. All the succeeding governments in Italy have respected its integrity. In 1862, the Kingdom of Italy concluded a treaty, which it has renewed from time to time as late as 1939, guaranteeing the liberty and independence of the republic and extending it protective friendship.

FORM OF NATIONAL GOVERNMENT

San Marino has an electoral law issued in 1926. This was preceded by the laws of 1906, 1907, 1915, and 1920.

SOURCE OF SOVEREIGNTY

The source of sovereignty is not stated.

RIGHTS OF THE PEOPLE

There is no statement of rights.

LEGISLATIVE DEPARTMENT

Legislative power is in the hands of the Great and General Council of sixty members. Fifty-eight of these are elected by the *Arringo* which consists of the heads of families. Two governing captains in charge of the electoral committees are members by right.¹

EXECUTIVE DEPARTMENT

Two members of the Great Council are chosen to exercise the executive power for a term of six months.²

JUDICIAL DEPARTMENT

There is no provision regarding courts.

AREA, POPULATION, LANGUAGE

San Marino has an area of 38 square miles and a population of 14,545. The language is Italian.

¹ Electoral Law, Arts. 1, 2.

² No express constitutional provision.

ELECTORAL LAW OF SAN MARINO¹

November 18, 1926

Chapter I

Composition of the Council

Art. 1. The great and general council of the republic emanates from the assembly [*Arringo*] of the heads of families. It is composed of sixty members, of which two are so by right and fifty-eight are elected.

Art. 2. The governing captains in charge at the time of the meeting of the electoral committees belong to the new legislature by right, reservation being made of the provision in Article 14.

Art. 3. The fifty-eight elected members are named by the *Arringo* meeting in electoral committees and are chosen, in a partial and exceptional manner, by the council by co-optation, with such ways and formalities as the following articles establish.

Chapter II

Conditions of the Electorate

Art. 4. In accordance with the statute and decision of March 25, 1906, of the general *Arringo*, the heads of San Marino families, either by origin or naturalization, are electors.

Any one who lives in the home of an older relative who has the electoral right is not considered the head of a family, although he has reached his majority.

However, in spite of living together with the head of a family and provided they have reached their majority, the following can be electors: (1) licentiates; (2) members of the militia; (3) individuals personally inscribed on the rolls as contributors to the tax on income for a sum at least 150 liras a year.

Art. 5. The following are excluded from the electoral function: (a) women; (b) those interdicted and those incapable by feebleness of mind; (c) those condemned to permanent or temporary forfeiture of their full juridical capacity; those condemned to repressive penalty for crimes or for electoral corruption, and also those who have fallen into a state of judicial bankruptcy or who have not arrived at an agreement with their own creditors.

If the electoral right of the head of a family is lost for one of the above reasons, it passes to the oldest member living with the family and having the qualifications of an elector.

¹Translated by Dorothy W. Peaslee from Dareste, *Les Constitutions Modernes*, Vol. II, p. 423.

Art. 6. The elector cannot exercise his right except in the parish where he has civil domicile.

If he has transferred his domicile to another parish, he has the right to be inscribed on the electoral list of that parish upon request presented to the office of civil status on January 1 at the earliest and February 16 at the latest of the same year.

If he has transferred his residence out of the territory of the republic, he must exercise his political right in the parish where he had his last domicile or residence; and if he cannot prove his last domicile or residence he may choose the parish where he will be inscribed, provided that he makes the request to the office of civil status within the time indicated in the previous paragraph.

Art. 7. The electoral lists, one to each commune, are officially established; they include in alphabetical order, under their first and surnames, and with the indication of the name of the father, all those who possess the qualifications necessary to be an elector.

They are drawn up by a commission composed of the secretary of the interior, the president, the officer of the civil status, the clerk of the court and three members named by the legislature of the council.

This commission must revise, complete, and publish the list every year before January 31 by depositing it in the office of the civil status and posting it in every electoral parish.

Art. 8. Within fifteen days from the publication of the list, all citizens, even those not directly interested, can make a written or oral protest against the electoral list before the officer of the civil status.

Decision upon such protest shall be made without appeal in the course of the month of February by the commissioner of law. From the moment when the lists have been declared definitive, they cannot be modified until the revision of the following year, and in the election taking place at any time during the year, only the electors inscribed on the lists definitively established shall take part.

Art. 9. The lists can, however, be modified due to the death of any electors or the sudden disappearance for any person of one of the conditions stated in Articles 4 and 5.

Art. 10. The electoral lists must be accessible to all in the office of the civil status and must be kept there.

Chapter III

The Electoral College—Complementary Elections during the Legislature—Convocation of Committees

Art. 11. The members of the Grand Council are renewed every six years and whenever, by resignation or for any other reason, half plus one of the members disappear.

Art. 12. The election of the councilors above stated—subject to the provisions of Articles 13 to 38—is made by one sole college, by balloting, by majority, and with proportional representation for the seats of the minority.

Art. 13. The elective seats that during a legislature become vacant for any reason whatsoever shall be distributed by the council by co-optation.

Nomination shall be made by means of ballots among the candidates proposed by the councilors, drawn by lot, of a number double that of the

vacant seats. After the candidates have been announced each councilor may freely add another in such a manner, however, that the total of the said candidates shall not be more than triple that of the free seats.

The nomination can also be made by means of ballots carrying as many names as there are councilors to be elected, on the condition that this manner be proposed by ten councilors at least and accepted by the Regent.

The validity of the nomination requires the majority of the voters.

Art. 14. The assembly for the general election of the council is convoked by the Regent by a decision published fifteen days at least before that for which the convocation is made. This, in the month of March and September, cannot be fixed except for the day following that on which designation is made of the new regent-captains. To these latter (and not to those who must abandon the power) shall belong the nomination by right for which Article 2 provides.

Art. 15. Ten days at least before the day fixed for the elections, the electoral commission shall have posted in each parish the list of the electors of the section to which the parish belongs; this posting constitutes the invitation to vote and replaces the certificate of inscription.

Chapter IV

Formalities Previous to the Vote

Art. 16. The list of candidates must be presented by thirty electors at least and deposited, before mid-day of the sixth day before the vote, at the secretariat of the interior, which shall give a receipt therefor.

The signatures of the electors, on a single document or on different documents, must be legalized by a notary public or by the secretary of the interior. For the illiterate electors the declaration of the functionary charged with legalization shall take the place of signature.

No elector may sign more than one list of candidates, under penalty of a fine that can reach one hundred lira.

The declaration of the presentation of the list of candidates must also contain indication of a delegate and a substitute authorized to take part in the operations of the central office and to designate from the list, before mid-day of the day preceding the vote, the name of the actual representative and his substitute at the bureau of each electoral district.

Art. 17. Each list may contain any number of candidates provided it does not exceed that of the councilors to be elected; it must indicate the first name, surname, and descent of each candidate.

Lists containing less than forty-six candidates cannot be admitted to compete for the places reserved for the majority; this is in conformity with the dispositions of Article 38.

No candidate may be inscribed in more than one list.

The candidacy must be accepted in a declaration signed and legalized by a notary public or by the secretary of the interior; this declaration must be presented within the time fixed in the first part of the preceding article.

Art. 18. In the four days that precede the vote, the electoral commission mentioned in Article 8 must verify the list of candidates; take note of the counter-signatures; eliminate from the list the names of those from whom the prescribed acceptance is missing; discard the lists which

are not subscribed by the required number of electors or in the legal form fixed for the presentation; communicate by individual act, notified by bailiff to the delegate who presents the list, the irregularities observed, allowing a peremptory delay of forty-eight hours from the time of the notification to make it conform with the prescriptions of the law.

Art. 19. In the twenty-four hours from the presentation of the list provided for in Article 16, the department of the interior shall deliver the ballots to the delegates of each committee.

The ballots must be on good white paper. The counter-signature of the committee must be placed on one of the sides of the ballot.

Art. 20. Each committee before mid-day of the day preceding the vote must remit to the department of the interior ten copies of the form of ballot which the electoral commission must later deliver to all the presidents of the electoral bureaux.

Chapter V

Conditions of Eligibility

Art. 21. Other than the general conditions of the electorate expressed in Articles 4 and 5, it is necessary to be eligible as councilor:

- (1) To know how to read and write;
- (2) Not to be in any ecclesiastical post;
- (3) To be domiciled in the republic.

Chapter VI

Procedure of General Elections

Art. 22. Seats of the electoral bureaux, that is of the electoral districts are: Citta, Borgo, Serravalle, Chiesanuova, Domagnano, Faetano, Fiorentino, Montegiardino. The electoral commission may for the rest modify the electoral sections with the agreement of the Regent.

Art. 23. The commission provided for in Article 7 is charged with drawing up each year and making public before January 31, by deposit in the office of the civil status and by posting in all the electoral districts, a list of citizens who shall be presidents of the voting bureaux during the year.

The commission must choose the said presidents from the following category of San Marino citizens, electors, domiciled or residing in the territory of the republic:

- (a) Diplomats and those having academic degrees;
- (b) Holders of technical or gymnasium diplomas;
- (c) Individuals who have occupied at another time the office of president of a bureau in a preceding election.

Excluded from this list are: the secretaries of the interior and of the exterior, the officer of the civil status, the clerk of the court, the three members elected by the electoral commission and the members of the board of elections.

[Period for complaints against the list: Cf. Article 8].

The commission, in a meeting prior to and near the time of the convocation of the committees, shall proceed to the nomination of the presi-

dents of each of the electoral bureaux; in case of non-acceptance of a nomination it shall take the necessary measures.

Art. 24. The morning of the day fixed for the balloting, the presidents of the electoral bureaux must report to the palace of government to receive there from the electoral commission all the necessary materials for the voting, together with the envelopes in which must be placed the form of ballot and the list of the representatives designated for each list.

The envelopes must be delivered in number corresponding to that of the electors inscribed, augmented by a third; all without exception must bear the stamp of the electoral commission.

Arts. 25-26. [Constitution of the bureau of voting. Nomination of two secretaries.]

Art. 27. The representatives of the different lists have the right to be present at all the operations of the electoral bureau.

It is permitted to them to deliver to the electors, before the latter go into the booth, the ballot with the list; but they must abstain from all propaganda or solicitation.

The president of the bureau may require any representative to leave who exercises pressure or disturbs the procedure of the election.

Art. 28. The president of the bureau and the representatives of the lists and the electors that accompany the president for service [drivers and soldiers], vote in the bureau where they exercise their office.

Art. 29. [Presence at the bureau].

Art. 30. [Attributes of the bureau . . . to judge in the first instance the contests relative to the irregularity of the operations].

Art. 31. [Closing the room and the election process to non-electors].

Art. 32. [Posting, during the operations, the two lists of resident and non-resident electors registered in the district].

Art. 33. [Procedure of the vote, the return of ballots, and marginal notations.]

Art. 34. [Maintenance of order. Removal and disposition of armed forces.]

Art. 35. A ballot placed in the box represents one vote for a list.

Art. 36. [The opening and closing of the ballots.]

Chapter VII

The Verification of the Elections and the Proclamation of the Elected

Art. 37. [The counting and placing under seal of the bulletins, the report and other documents in a return envelope, the same evening as the balloting, to the commissioner of law.]

Art. 38. The following day the presidents of each of the bureaux shall meet with the delegate of each of the lists according to Article 16, in the audience room of the tribunal at ten o'clock, under the presidency of the commissioner of law, to constitute the central electoral bureau, which shall proceed to the following operations:

- (1) The counting of the votes obtained by each list in all the districts;
- (2) Determination of the list that received the most votes and the right to forty-six councilors.

If the list that has obtained the majority of votes contains a number of candidates less than forty-six, it can compete only for the seats belonging to

the majority for which the following paragraph provides; and all the seats belonging to the majority shall pass to the list that has forty-six candidates.

If the list that has obtained the majority of votes contains a number of candidates greater than forty-six, the forty-six designated first in the order of the list presented to the secretariat of the interior, in conformity with Article 16, shall be declared elected. The remainder of the candidates may compete for the seats reserved to the minority as provided in paragraph (3), below;

(3) Division of the remaining fifth of the seats of councilors [12] between the list of the majority and that of the minority. If necessary, this procedure shall be followed: (a) the sum of the votes obtained by the list that has the majority, as stated in the preceding paragraph, shall be divided successively by 47, 48, 49, 50 . . . ; the sum of the votes obtained by the other list shall be divided by 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12; (b) of the quotients thus obtained, the highest shall be chosen in disposing of them in accordance with a diminishing scale of 12; (c) to each list shall be allocated as many seats of the minority as it contains times the quotient in the graduated scale. In case of equality of quotients among the lists of the minority, the seat belongs to that which has received the greatest number of votes. The seats are allowed to the candidates as provided in the last paragraph of the preceding number.

If the list that obtains the majority of the councilors contains only forty-six names of candidates, the seats of the minority eventually pertaining to that list shall be allocated by the Grand and General Council according to the rule of Article 14.

If none of the lists contains forty-six candidates, the seats shall be apportioned by dividing the sum of the votes of each of them by 1, 2, 3, 4, etc. successively, until arrival at the number of councilors to be elected; as a consequence, the highest in number equal to that of the councilors to be elected shall be chosen from among the quotient thus obtained, disposing of them in accordance with a descending scale. Each of the lists shall have as many representatives (to be chosen according to the order of inscription on the list) as the quotient belonging to it shall be included in the graduated scale. If there is an equality of quotients, the seat shall be given to the list that obtained the greatest number of votes. If by this manner of procedure all of the elective seats are not provided for, those that remain shall be provided for by the Grand and General Council according to the rule established in Article 13, subject to the condition that the councilors attain the number of thirty; for lack of which the Regent shall make a new convocation of electoral committees;

(4) Proclamation of the elected and declaration of the number of vacant seats eventually at the disposition of the Grand and General Council.

Art. 39. It is forbidden to the central bureau to deliberate on, and also to discuss, the allocation of votes, the complaints, protests, and incidents that occur in the voting places, and to occupy itself with any subject other than those determined in the preceding article.

Art. 40. The central bureau, upon the completion of the operations confided to it, transmits all the envelopes to the secretariat of the interior, which in turn delivers them to the board of elections.

Art. 41. Within three days, the secretariat of the interior publishes the result of the ballots and notifies each of those elected.

Art. 42. The permanent board of elections is presided over by the Regent and composed of five members, elected by the council and remaining in office during all of the legislature.

Art. 43. The rôle of the board is to examine all the electoral documents, to receive appeals formulated by the electors within ten days of

the election regarding all questions of eligibility or electoral procedure, to provide for the eventual expulsion of ineligible . . . , to declare seats vacant according to the principles of Articles 38, and to propose quickly the validation of all the councilors declared elected.

For elections in which there are no protests, that is to say, in the cases where those elected fulfill all the conditions of eligibility required by the present law and where the electoral operations have taken place regularly, the council simply takes note of the conclusions of the board of elections.

It proceeds, on the contrary, to vote on the conclusions of the board, for acceptance or rejection, in particular cases of contested, doubtful, or irregular election.

Art. 44. If from the report of the bureau of an electoral district it appears that the operations have been prevented by violence or that the ballots have been violently scattered in order to prevent the counting, the Regent will convoke the committees in the said district for the following Sunday. In such case the operations of the central bureau prescribed in Article 38 shall be postponed to the day after the supplementary balloting.

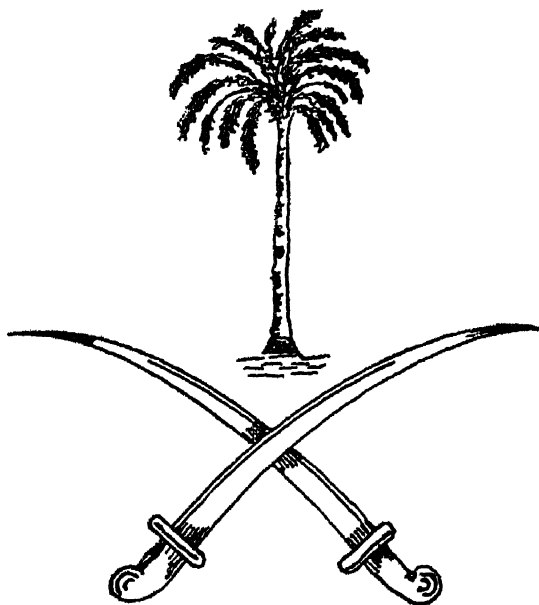
Art. 45. The councilors must take oath within two months from the validation of their election.

Those who fail to do so without just cause shall be deprived of their mandate.

Art. 46. [Penal sanction for every restraint on the free exercise of political rights.]

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SAUDI ARABIA

SUMMARY

INTERNATIONAL STATUS

Saudi Arabia is a member of the United Nations. It signed the Charter in San Francisco on June 26, 1945, and deposited its ratification on October 24, 1945. It adhered on March 6, 1945, to the United Nations Declaration of January 1, 1942.

The Hejaz, now a part of Saudi Arabia, was one of the original members of the League of Nations but did not sign the Statute of the Permanent Court of International Justice of 1921. By virtue of its membership in the United Nations, Saudi Arabia is a party to the Statute of the International Court of Justice of 1945. It is not, as of the time of

our going to press, subject to the compulsory jurisdiction of the Court.¹ It is a member of the Universal Postal Union and other international organizations.²

On January 15, 1902, the present King of Saudi Arabia, Abdel Aziz ibn Abdel Rahman Al Faisal Al Séoud, previously a refugee in Koweit, reconquered Riad, the capital of the Nejd, which had been seized by the Rashid family. During the next twenty-five years he continued extending his domain until, on January 29, 1927, he became King of the Hejaz, Nejd and Dependencies. By the end of 1931 his government had been generally recognized by other governments. It adhered, on December 10, 1931, to the Paris Pact of 1928 for the renunciation of war. The name of the Kingdom was changed to Saudi Arabia by a royal decree of September 18, 1932.

Saudi Arabia declared war on Germany and Japan on March 1, 1945.

FORM OF NATIONAL GOVERNMENT

Saudi Arabia is "a monarchical, constitutional and Moslem state."³ The entire administration of the Kingdom is "in the hands of the King," subject to "the standards of the noble Sharia."⁴

SOURCE OF SOVEREIGN POWER

The source of the sovereign power is not stated in any of the constitutional documents.

RIGHTS OF THE PEOPLE

The constitutional documents contain no specific guarantees of individual rights. The King is, however, "bound by the standards of the noble Sharia," and the legal standards in the Kingdom must be "in conformity with the Book of God, the Sunna of the Prophet . . . and the conduct of the Prophet's companions and the first virtuous generations."⁵

LEGISLATIVE DEPARTMENT

Legislative functions are performed by an advisory council composed of the viceroy, his advisers and six notables designated by the King.⁶ This council meets at Mecca each week and oftener if necessary to consider matters referred to it by the vicerealty and makes decisions subject to the approval of the King.⁷ The departmental directors, upon summons by the vicerealty, attend meetings of the council at which questions relating to the departments are discussed.⁸

¹ See Yearbook of the Court, 1947-48, p. 38; also Documents & State Papers, U. S. Department of State, June 1948, Vol. 1, No. 3, p. 192.

² See Table I.

³ Constitution of the Kingdom of the Hejaz, Art. 2.

⁴ Id., Art. 5.

⁵ Id., Arts. 5, 6.

⁶ Id., Art. 28.

⁷ Id., Arts. 29, 31.

⁸ Id., Art. 30.

There are also, in the municipalities of Mecca, Medina, and Jedda, general municipal councils which may pass resolutions, subject to approval by the advisory council and by the King, with respect to the administration of those municipalities.¹

EXECUTIVE DEPARTMENT

The King, in whose hands is the entire administration of the Kingdom, appoints a viceroy (lieutenant general) and as many directors and chiefs as are necessary. The directors and chiefs are responsible to the viceroy, who is, in turn, responsible to the King.² The affairs of the Kingdom are divided into six fundamental sections: Sharia, internal, foreign, financial, public instruction, and military.³ There is a council of ministers, composed of a president, the minister of foreign affairs, the minister of finance and the minister of the advisory council.⁴ The council of ministers meets every evening when the majority of its members are in the same place and, in any event, at least once a week.⁵ The president of the council of ministers serves also as viceroy, minister of foreign affairs, and minister of military affairs.⁶

JUDICIAL DEPARTMENT

The constitutional documents contain no reference to judicial organs except in the provision that the presidency of the judiciary is one of the services belonging to the president of the council of ministers,⁷ and the provision that the directorate of the Sharia tribunals, in so far as they are not subject to the presidency general, is entrusted to the ministry of the interior.⁸

AREA, POPULATION, LANGUAGE

The area of Saudi Arabia is 350,000 square miles. Its population is estimated at 6,000,000. The official language is Arabic.⁹

¹ Constitution of the Kingdom of the Hejaz, Arts. 62-71.

² Id., Arts. 5-8.

³ Id., Art. 9.

⁴ Decree of December 29, 1931, Art. 1.

⁵ Id., Art. 12.

⁶ Id., Art. 3.

⁷ Id., Art. 16.

⁸ Id., Art. 17; cf. Art. 3 and note thereon.

⁹ Constitution of the Hejaz, Art. 4.

CONSTITUTIONAL DOCUMENTS OF SAUDI ARABIA¹

CONSTITUTION OF THE KINGDOM OF HEJAZ

August 29, 1926

PART I

The Kingdom, Constitution, Capital, Official Language

Art. 1. The parts of the Kingdom of the Hejaz, with its known boundaries, are bound together and may not be divided or separated in any way.

Art. 2. The Arabic State of the Hejaz is a monarchical, constitutional, and Moslem state, independent in its internal and external affairs.

Art. 3. Holy Mecca is the capital of the State of the Hejaz.

Art. 4. The Arabic language is the official language of the State.

PART II

Administration of the Kingdom, Legal Standards, the Vice-Royalty, the Responsibility of the Administration

Art. 5. The entire administration of the Kingdom of the Hejaz is in the hands of His Majesty Abdel Aziz I ibn Abdel Rahman Al Faisal Al Séoud. His Majesty is bound by the standards of the noble Sharia.

Art. 6. In the Kingdom of the Hejaz, the legal standards shall be always in conformity with the Book of God, the Sunna of the Prophet—the benediction of God be upon him—and the conduct of the prophet's companions and the first virtuous generations.

Art. 7. His Majesty the King will appoint a viceroy (lieutenant general) and as many directors and chiefs as shall be necessary for the administration of the Kingdom.

Art. 8. The vicereignty being the co-ordinating organ for all departments of the government and their different sections, each departmental director and each chief shall be held responsible to the vicereignty for the administration of all matters within their several assignments. The vicereignty is, in turn, responsible to His Majesty the King.

¹ The documents used here are those which are considered to be the principal constitutional documents of the Kingdom of Saudi Arabia. English translations of the Hejaz Constitution and the decree constituting Nejd a Kingdom have appeared in *British and Foreign State Papers*, Vol. 124, Part II, pp. 880-888, and Vol. 130, Part I, p. 879, respectively, and in Helen Miller Davis, *Constitutions, etc. of States of the Near and Middle East*, pp. 248-258. The Decree of December 29, 1931, so far as the editor is informed, has not appeared heretofore in English. An English translation of the Decree of September 18, 1932, is in Helen Miller Davis, *op. cit.*, pp. 259-260. The translations here used were made from the French translations in *Revue Egyptienne de Droit International*, Vol. 3 (1947), pp. 146-156, except as to Articles 56-79 of the Hejaz Constitution, which have been reproduced from *British and Foreign State Papers*, Vol. 124, Part II. Observe the provisions of the Decree of December 29, 1931, Art. 6, which contemplates the formation of a new constitution.

PART III

The Affairs of the Kingdom of the Hejaz

Art. 9. The affairs of the Kingdom of the Hejaz are divided into six fundamental sections:

- (1) Sharia affairs;
- (2) Internal affairs;
- (3) Foreign affairs;
- (4) Financial affairs;
- (5) Affairs of public instruction;
- (6) Military affairs.

(1) Sharia Affairs

Art. 10. Sharia affairs mean affairs and questions relating to the Sharia law, the two holy territories, the wakfs, the mosques, and all the religious establishments.

(2) Internal Affairs

Art. 11. Internal affairs mean affairs of the public security, telegraphs, posts, public hygiene, municipalities, public works, commerce, agriculture, industry, mines, and other private institutions. They are, with their agencies, directly administered by the viceroyalty.

Art. 12. The viceroyalty being responsible for internal affairs and their good administration, the directors of public security, the telegraphs, the post and public hygiene must exercise their functions within the limits of the orders and instructions issued to them by the viceroyalty.

Art. 13. The chiefs of the municipalities must exercise their functions within the limits of the instructions which shall be promulgated with reference to the municipalities and their organization. The municipality of the capital is attached to internal affairs, and each of the other municipalities is attached to the highest administrative official of the region.

Art. 14. The commission on pilgrimage is composed, under the presidency of the viceroy, of the directors of the departments that are concerned with matters of pilgrimage, and of qualified persons of importance designated by His Majesty the King.

Art. 15. The commission on pilgrimage has full authority to study all matters and cases relating to pilgrimage and pilgrims, to consider them on their merits and take such decisions as may be required by the public interest, convenience, and necessity.

Art. 16. All decisions of the commission on pilgrimage shall be enforced by the viceroyalty, after the high royal sanction.

(3) Foreign Affairs

Art. 17. Foreign affairs mean the direction of the foreign policy of the State in the desired manner. They are divided into four sections: political, administrative, legal, and consular.

Art. 18. The direction of foreign affairs is entrusted by His Majesty the King to the person who is most highly competent and qualified to perform those special duties.

Art. 19. The department of foreign affairs shall be directly attached to his royal majesty but shall receive orders from the viceroyalty with respect to the administrative and consular sections.

(4) Financial Affairs

Art. 20. Financial affairs mean the conduct and organization of the different sources of revenue and the general expenditures of the State. Its agencies are the following:

- (a) The department of finance;
- (b) The treasuries and branches thereof;
- (c) The bureaus of accounting of the departments that have revenues;
- (d) The department of customs.

Art. 21. The department of finance, with the abovementioned agencies, is attached to the viceroyalty.

Art. 22. All financial officials are, in order of rank, responsible for the good administration and regularity of financial matters.

(5) Affairs of Public Instruction

Art. 23. Affairs of public instruction mean the diffusion of learning, skills, and arts; the opening of schools (primary and secondary); the scrupulous protection of scientific (religious) institutes; and the special care to be accorded to the principles of the true religion throughout the Kingdom of the Hejaz.

Art. 24. Affairs of public instruction are administered by a directorate attached to the viceroyalty.

Art. 25. A law on public instruction shall be promulgated, and its provisions shall be applied progressively. Primary teaching shall be free in all parts of the Kingdom.

(6) Military Affairs

Art. 26. Military affairs mean all the agencies which maintain the strength and standing of the Kingdom at home and abroad.

Art. 27. Functions relating to military affairs or growing out of the same are regulated by His Majesty the King.

PART IV

The Councils: the Advisory Council, the Council of Medina, the Council of Jeddah, the District Councils, the Village and Tribal Councils

The Advisory Council

Art. 28. In the capital (Mecca) there shall be established an advisory council, composed of the viceroy, his advisers, and six notables designated by His Majesty the King from among persons who are competent and qualified.

Art. 29. The advisory council shall meet each week and oftener if necessary, under the presidency of the viceroy or one of his advisers, to consider the matters and questions referred to it by the viceroyalty, to study them carefully, discuss them and take decisions by majority vote.

Art. 30. In case of need, the departmental directors, upon summons by the viceroyalty, shall attend the meetings of the advisory council at which questions relating to their departments are discussed.

Art. 31. The decisions of this council shall be executed after they have been submitted to His Majesty the King by the viceroyalty and have received his august approval.

The Councils of Jedda and Medina

Art. 32. At Jedda and Medina, respectively, there shall be established an administrative council, composed of the Kaimakam, his assistant, the chief officials, and four notables designated by His Majesty the King from among persons who are competent and qualified.

Art. 33. Each of the two councils established by virtue of the preceding article shall meet once each week, or oftener if necessary, under the presidency of the Kaimakam or his assistant, to consider the matters and questions referred to it with respect to the two cities and to take decisions by majority vote.

Art. 34. The decisions of the administrative councils of Jedda and Medina are communicated to the viceroy and executed, pursuant to Article 31, after submission to and approval by His Majesty the King.

Art. 35. Decisions and regulations clothed with the high sanction of the King, as well as the royal ordinances, shall, after registration by the royal bureau, be communicated for execution to the vicerealty, which will make them known to all the departments and sections of the administration.

Art. 36. The term of office of the notables appointed to the advisory council under Article 28 and to the administrative councils of Jedda and Medina under Article 32 shall be only one year, at the end of which other members shall be appointed.

Art. 37. Former members may be appointed for a new term.

The District Councils

Art. 38. In the chief town of each district there shall be established a council, composed, under the presidency of the chief of the district, of the assistant to the chief, the principal officials and persons appointed from the notables of the population. The council shall meet once each week or oftener.

Art. 39. The councils established by virtue of the preceding Article have the functions of considering and discussing the notes and official questions communicated to them by the district chiefs and taking the decisions required by the public interest.

Art. 40. The decisions of the district councils are submitted to the Kaimakam of the province to which the district in question belongs. The Kaimakam will, in turn, communicate them, with his observations, to the viceroy, who will submit them to His Majesty the King. After having received the high sanction of the King, these decisions will be executed.

The Village and the Tribal Councils

Art. 41. In each village or important tribe there shall be established a council, under the presidency of the sheikh, composed of a Sharia jurist and two persons chosen from among the notables of the population, to consider matters relating to the administration of the provinces or of districts, villages and tribes.

Art. 42. The village and tribal councils are responsible to their administrative superiors, in conformity with the regulations contemplated in the preceding Article, for matters and questions within their competence.

(Arts. 43 to 55. No longer in force.)¹

PART VII

Employees

Art. 56. All members of councils and all government employees should possess the following qualifications:

- (1) They should be subjects of His Majesty the King.
- (2) They should be properly qualified and competent.
- (3) They should be of good character and address.
- (4) They should not have forfeited their legal Sharia rights.

Art. 57. Persons who are not His Majesty's subjects, and whose employment is considered necessary, may be engaged on contract for limited periods and under special conditions.

Art. 58. Any civil servants among those mentioned in Article 56 have their rights and honor guaranteed by the government.

Art. 59. A civil servant who shows efficiency and application in his work shall not be transferred to another department without his consent.

Art. 60. Any civil servant whose innocence of any charge against him is proved before a court shall not be dismissed from his employment.

Art. 61. Rules and regulations shall be drawn up regarding government employees, setting forth the terms of their employment, promotion, salaries, rights, functions, grades, dismissal, pensions, trials, and everything in connection with the same.

PART VIII

General Municipal Councils

Art. 62. A council shall be elected in each of the municipalities of Mecca, Medina, and Jedda, and shall be called the "general municipal council."

Art. 63. Its members shall be landlords, members of special crafts and professions, which will be mentioned in the municipal regulations, and the notables who will be elected by His Majesty the King or the viceroy after their names have been submitted for membership of the general municipal council.

Art. 64. The membership of persons elected for a general municipal council will not be considered valid until after approval by His Majesty the King.

Art. 65. The members of a general municipal council shall not exceed twelve in number in the capital, and eight in Medina and Jedda.

Art. 66. Any member elected to a municipal council should be a subject of His Majesty the King, not less than thirty years of age, and should be a capable and competent person, able to read and write Arabic well. He must be in possession of his legal and Sharia rights and known to be of good conduct.

Art. 67. The general municipal councils must meet once every month, or more frequently if necessary, under the presidency of one of the members, who will be elected at each sitting.

¹ According to note at page 151 of *Revue Egyptienne de Droit International, sup. cit.*, Articles 43 to 45 related to a court of accounts; Articles 46 to 55, to the inspection of accounts.

Art. 68. The general municipal councils have full right to examine everything in connection with the municipalities and to pass resolutions to ensure their good administration and order.

Art. 69. Every resolution passed by the general municipal councils in the capital should be transmitted to the viceroy's office or, in the case of Jedda and Medina, to the office of the Kaimakam, who after investigating it should submit it to the office of the viceroy. The latter in turn will submit it to the Advisory Council, which, after investigation and endorsement, will pass it to His Majesty the King through the viceroy.

Art. 70. The directors of the municipalities should act in accordance with the resolutions passed by the general municipal councils and approved by His Majesty the King, and should carefully comply with them.

Art. 71. The general municipal councils have the right to draw up, modify, or increase, when necessary, the municipal budgets. They can do so after the approval of His Majesty the King, as laid down in Article 69.

Art. 72. As the directors of the municipalities are held responsible to the general municipal councils, they should be prepared to answer in detail any inquiry or question put forward by the members in accordance with the law which will be drawn up regarding the organization of the municipalities.

Art. 73. The municipal members have no right to go beyond the limits of such of the foregoing articles as may be valid and may be laid down in the organization of the municipalities.

Art. 74. The period of validity of membership of the general municipal councils is three years, after which new elections must take place in accordance with Article 63.

Art. 75. Former members are eligible for re-election.

Art. 76. Membership of the general municipal councils is an honorary position.

PART IX

Municipal Administration Committees

Art. 77. In every municipality there shall be a committee composed of the director of the municipality and other heads of its different sections.

Art. 78. The function of these committees is to investigate ways and means for executing the resolutions passed by the general municipal councils, by carefully examining everything which is passed to them and by reaching decisions regarding the same.

Art. 79. Administrative committees should meet twice every week, or more often if necessary.

DECREE CONSTITUTING THE NEJD A KINGDOM AND UNITING IT WITH THE HEJAZ

January 29, 1927

In response to the petition presented to us by those who have the power to loose and to bind in the Sultanate of the Nejd and its dependencies, we have ordered that the said Sultanate and its Dependencies become the "Kingdom of the Nejd and its Dependencies" and that our title be henceforth "King of the Hejaz, the Nejd and Dependencies." We pray God to give us success and aid to fulfill our task. He is the best of aids.

DECREE ESTABLISHING A COUNCIL OF MINISTERS

December 29, 1931

Art. 1. The council of ministers is composed of the president, the minister of foreign affairs, the minister of finance and the minister of the advisory council.

Art. 2. The president of the council of ministers, in the absence of His Majesty the King, becomes *ex officio* viceroy. But when His Majesty is present, he is only president of the council of ministers.

Art. 3. He serves at present as president of the council of ministers and also as viceroy, minister of the interior, of foreign affairs, and of military affairs.¹

Art. 4. The council of ministers shall have a general bureau directed by a responsible chief. From this bureau shall be transmitted to the ministries and administrations the decisions of the council of ministers and those of the president of the council either in that capacity or, in the absence of His Majesty the King, in the capacity of viceroy.

Art. 5. The council of ministers derives its authority from His Majesty the King. The ministers are jointly responsible to His Majesty the King for the conduct of the general policy of the State, and personally responsible for the acts of their respective ministries.

Art. 6. The decisions of the council are valid when they are taken by majority of votes; they become enforceable only if they are signed by the majority, including the minister concerned with them.

Art. 7. In case of disagreement of the ministers upon any question or in case of objections to a majority decision, the president of the council, acting as viceroy, may, if the question is important, order the execution of the decision on his own responsibility; if the question can be deferred until His Majesty the King is consulted, execution shall be delayed to consult His Majesty and obtain his orders.

¹ The ministry of the interior is stated to have been abolished in 1934, its functions being taken over by the presidency of the council. See *Revue Egyptienne*, *sup. cit.*, p. 152.

Art. 8. The ministers may demand of one another explanations and the presentation of a written statement of what their colleagues have done with respect to a previous decision the execution of which was entrusted to one or more of them. The colleague responsible for such execution shall present such statement and, if he refuses and it is not possible to reconcile the parties, the question shall be submitted to His Majesty the King to relieve the parties of all responsibility.

Art. 9. The president of the council is the channel through which the royal decrees are transmitted to the administrations and the ministries, which must likewise apply to the president with respect to official questions.

Art. 10. If a minister, a chief of administration, or a simple subject has knowledge of a new fact which might benefit or endanger the State and which is not governed by the existing laws, he shall in writing inform the president of the council, and the latter, after having considered it and added the necessary observations, shall, communicate it to His Majesty the King, who will take such action thereupon as he may deem appropriate.

Art. 11. If the president of the council gives a minister an order for action upon a matter for which there are no written provisions in the existing decrees, or for which there has been no decision of the council of ministers, or if there is such a decision but the minister concerned is opposed thereto, the minister must execute such order immediately when it is in writing and based on a sovereign order dated and numbered, provided that, in case the sovereign order relied upon is not clearly expressed, the question shall be laid before His Majesty the King.

Art. 12. The council shall meet each evening when the majority of its members are in the same place; in any event, a weekly meeting is necessary, by day or night, to attend to all the matters submitted to the council after the preparation which the bureau is required to make of such matters.

Art. 13. The absence of a minister, on the occasion of discussions which require his presence because they concern his department, may not delay the work; the decisions shall be taken and notified as usual to the ministers, including the absent minister. If the minister concerned objects to a decision taken in his absence, he shall immediately explain his objections to the president and to his colleagues in order that the execution thereof may be suspended until a meeting and deliberation of the ministers. If no objection has been formulated, the decision shall be executed. The absence of objection by a minister within twenty-four hours of his receipt of notice of a decision taken in his absence shall be deemed to be approval by him unless he has a legitimate excuse for delaying objection; otherwise the decision is final.

Art. 14. The decisions of the council are communicated to each of the ministers charged with their execution, as provided in decision No. 7 of the council, set forth in report No. 6 of the session of Friday night, November 26, 1931.

Art. 15. A special report shall be prepared for each session of the council of ministers, and each decision shall be separately set forth therein. The original report signed by the ministers shall be kept at the bureau of the council, and the necessary copies thereof shall be distributed. The reports shall also be transcribed in chronological order in a special grand register.

Art. 16. To the president of the council belong the following services:

- (1) The royal office;
- (2) Foreign affairs;
- (3) Finance;
- (4) Military affairs;
- (5) The advisory council;
- (6) The interior;
- (7) The presidency of the judiciary;
- (8) The emirs of the dependencies.

Other offices inferior to these services shall be co-ordinated with the departmental chiefs to which they are allocated, and the latter shall, in turn, be co-ordinated with the presidency of the council.

Art. 17. The ministry of the interior shall have charge of the following directorates:

- (1) Public hygiene;
- (2) Public instruction;
- (3) Posts and telegraphs;
- (4) Quarantine;
- (5) General police;
- (6) The Sharia tribunals, in the cases in which they are not subject to their presidency general;
- (7) The municipalities.

Art. 18. The preceding Article does not mean that the directorates may not communicate with His Highness the Emir, but it means that any correspondence addressed to the minister of the interior and received by the bureau shall be immediately transmitted by the latter to the interior.

Art. 19. The existing viceroyalty in its present form is divided into two sections: one attached to the ministry of the interior, which continues to be the seat of the existing viceroyalty without change of its activities, and the other attached to the presidency of the council and transferred thereto. When this division is effected, the directorates shall be notified in order that they may address to the ministry of the interior the correspondence which concerns that ministry and to the presidency of the council, the correspondence which concerns directorates immediately attached thereto.

Art. 20. The name of the existing viceroyalty shall be changed to ministry of the interior, and the name of the royal bureau shall become "bureau of the viceroy and of the presidency of the council of ministers."

Art. 21. The acts bearing the signature of His Highness the Emir shall be classified as follows:

- (1) Acts issued when his highness is acting as viceroy in the absence of His Majesty the King shall be signed: "The Vice-Roy."
- (2) Acts issued when His Majesty the King is present, or when His Highness the Emir is only the president of the council of ministers, shall be signed: "The President of the Council of Ministers."
- (3) Acts issued by the ministry of foreign affairs shall be signed: "The Minister of Foreign Affairs."
- (4) Acts issued by the ministry of the interior shall be signed: "The Minister of the Interior."

Art. 22. The directorates shall be informed of these provisions in order that they may observe them in the acts issued by them or in correspondence addressed to His Highness the Emir.

Art. 23. The bureau shall be organized in such a way as to facilitate reference to the papers concerning each directorate or each subject. The registers and copies of letters sent and received shall be carefully kept.

Art. 24. It is preferable that the bureau be organized as follows:

President of the bureau and his assistant;
Chief of despatches; chief of registers and archives; correspondence with the council of ministers and the royal bureau; correspondence with the directorates; section of stenographers and copyists.

Art. 25. The president of the bureau is the connecting link among the departments, the right arm of the Emir. He attends the meetings of the council of ministers, takes part in its work and in the authoritative supervision of the affairs of the bureau.

Art. 26. The assistant (of the president of the bureau) assumes responsibility for the business of the bureau. He supervises the officials of the bureau, the safe-keeping and registration of papers, the replies to letters, etc. Each of the other officials has duties in the performance of which he is aided, if necessary, by an assistant; they must keep and distribute (the documents) and perform the acts that concern them.

Art. 27. The agencies of the ministry of the interior shall be governed in such a way as to assure their functioning; clerks and officials in excess of the number required shall be transferred to the bureau of the presidency of the council.

DECREE NO. 2716 FOR ESTABLISHMENT OF THE KINGDOM OF SAUDI ARABIA

September 18, 1932

Trusting in God, relying on the communications that have come to us from our various subjects in the Kingdom of the Hejaz, Nejd, and Dependencies, and yielding to the desire of public opinion for the unification of the parts of this Arabic Kingdom, we have ordered the following:

Art. 1. The name of the Kingdom of the Hejaz, Nejd, and Dependencies is changed to Kingdom of Saudi Arabia, and our title shall henceforth be King of the Kingdom of Saudi Arabia.

Art. 2. This change shall take effect on the date of its promulgation.

Art. 3. This change shall have no effect on international treaties, obligations, and agreements, which remain valid and subsistent. It shall likewise have no effect on contracts and agreements between individuals, which continue to be enforceable.

Art. 4. All regulations, instructions, and decrees heretofore issued by us shall continue to be valid and subsistent after this change.

Art. 5. The existing agencies of our government of the Hejaz, Nejd, and Dependencies shall provisionally retain their present status, pending the establishment of new agencies for the entire Kingdom on the basis of the new unification.

Art. 6. Our existing council of ministers must immediately proceed to the preparation of a fundamental statute (Constitution) of the King-

dom, a statute for the succession to the throne, and a statute for governmental organization, and must submit them to us for the issuance of the pertinent decrees.

Art. 7. In connection with the preparation of the statute above mentioned, the president of our council of ministers shall add to the members of the council one or more competent persons, in order to profit by their advice and to be guided by their knowledge.

Art. 8. We have chosen Thursday, the twenty-first of Guimada I, the year 1351 of the Hegira, corresponding to the first day of the constellation of Libra (September 22), for the promulgation of the unification of this Kingdom of Saudi Arabia. We pray to God for success!

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SPAIN

SUMMARY

INTERNATIONAL STATUS

Spain is not, as of the time of our going to press, a member of the United Nations. It was neutral during World War II.

It was a member of the League of Nations and signed the Paris Pact of 1928. It was a party to the Statute of the Permanent Court of International Justice of 1921 and accepted the optional clause (Article 36). It is not a party to the Statute of the International Court of Justice of 1945.¹ It is a member of the Postal Union and numerous other international organizations.²

¹ See Yearbook of the Court 1947-48, p. 31.

² Table I.

The Moors were expelled from Spain, with the capture of Granada in 1492, after a struggle or crusade which had lasted since 711. During the sixteenth century there was an enormous expansion of the Spanish Empire. After the defeat of the Armada in 1588 and the death of Philip II ten years later, Spain began to suffer a decline of political power.

The nineteenth century began with Napoleon's invasion of the peninsula and the loss of most of the colonies, and ended with the loss of the remaining ones in 1898. The intervening years witnessed civil war. In 1873 the King abdicated and the first republic was proclaimed, but in 1874 another *pronunciamento* restored the monarchy.

In 1923 there was a coup d'état on the part of the captain-general of Catalonia, Primo de Rivera y Orbaneja, and he became a dictator under the King. In 1931 the monarchy was overthrown in a bloodless revolution and the second Spanish republic was proclaimed. This lasted until after the elections of 1936, in which the Leftist parties won a majority. A counter-revolution under General Francisco Franco then broke out. The Civil War continued until March, 1939. The Franco government was recognized by Great Britain and France in February of that year and by the United States in April. The Franco regime was confirmed by a plebiscite conducted in 1937.

FORM OF NATIONAL GOVERNMENT

The fundamental laws of Spain are the Charter of the Spanish People, promulgated July 16, 1945; the Act of July 17, 1942, amended March 9, 1946, creating the Cortes; the Referendum Act of October 22, 1945; the Law of Succession of June 7, 1947; and the Labor Charter of July 6, 1947.

According to the Law of Succession,¹ Spain is a Catholic, social, and representative state which declares itself to be a kingdom. The powers of the office of Chief of State, now held by Franco, will, in the event of a vacancy, be exercised by a council of regency, composed of the president of the Cortes, the highest ranking prelate of the Catholic Church, and the highest ranking officer of the land, sea, and air forces.² The Chief of State may at any moment submit to the Cortes the name of the person he believes should succeed him, either as king or as regent.³ If the Chief of State dies or is declared incapable of exercising office before a successor is named, the council of regency, the members of the government, and a council of the kingdom (composed of the members of the council of regency and ten other persons) will propose to the Cortes a person of royal blood as king, or a person not of royal blood as regent.⁴

¹ Law of Succession, Art. 1.

² Id., Art. 6.

³ Law of Succession, Art. 3.

⁴ Id., Arts. 4, 8.

SOURCE OF SOVEREIGN POWER

The source of sovereign power is not stated in any of the fundamental laws. According to a letter from the Spanish Embassy in Washington to the editor, dated July 31, 1948, "the source of power in Spain lies in the Spanish people, itself."

RIGHTS OF THE PEOPLE

The Charter of the Spanish People of 1945 declares that the law protects equally the rights of all Spaniards, without class preference or discrimination of persons.¹ All Spaniards have a right to receive education.² The profession and practice of the Catholic religion enjoy official protection, but no one will be molested because of his religious beliefs or the private exercise of his cult.³ No one will be obliged to pay taxes other than those established by the Cortes.⁴ All Spaniards have a right to participate in public office of a representative character,⁵ to express their ideas freely so long as they do not advocate overthrow of the fundamental principles of government,⁶ and to fix their residence within the national territory.⁷ Liberty and inviolability of correspondence within the national territory are guaranteed.⁸ The home of a Spaniard may not be entered or searched without his permission or a warrant from competent authority.⁹ Freedom of association for lawful ends and according to the provisions of the law,¹⁰ freedom from arbitrary arrest,¹¹ freedom from condemnation under laws not previously enacted or without prior hearing and defense,¹² and the right of petition are assured.¹³ Private property is recognized and protected as a natural means for the fulfillment of individual ends, subject to the necessities of the nation and to the common good.¹⁴ Sentences of confiscation are prohibited, and expropriation may be effected only in the interest of public and/or social welfare and after due indemnification according to law.¹⁵ Detailed provisions regarding the rights of labor are set forth in the Labor Charter.

LEGISLATIVE DEPARTMENT

The supreme power to issue legal orders of a general nature is still vested in the Chief of State.¹⁶ The Cortes, which is the legislative body created by the Act of July 17, 1942, as amended March 9, 1946, is an instrument of co-operation with the Chief of State in the enactment of law.¹⁷

¹ Charter of the Spanish People, Art. 3.

² *Id.*, Art. 6.

³ *Id.*, Art. 12.

⁴ *Id.*, Art. 15.

⁵ *Id.*, Art. 19.

⁶ *Id.*, Art. 32.

⁷ *Ibid.*

⁸ *Id.*, Art. 9.

⁹ *Id.*, Art. 14.

¹⁰ *Id.*, Art. 16.

¹¹ *Id.*, Art. 21.

¹² Preamble of Act of July 17, 1942, as amended.

¹³ *Id.*, Art. 5.

¹⁴ *Id.*, Arts. 10, 11.

¹⁵ *Id.*, Art. 13.

¹⁶ *Id.*, Art. 18.

¹⁷ *Id.*, Art. 30.

The members of the Cortes are called *procuradores*. The ex officio members are the ministers of state; the national councilors; the presidents of the council of state, the Supreme Court of Justice, and the supreme court of military justice; the mayors of the fifty provincial capitals and of Ceuta and Melilla (Morocco); and the presidents of the universities, the Spanish Institute, the higher council for scientific research, and the institute of civil engineers. A number of members not to exceed fifty may be appointed by the Chief of State on the basis of their ecclesiastical, administrative, military, or other public rank or their outstanding service to Spain. The remaining members are elected as follows: one by each of the municipalities other than the provincial capitals, Ceuta, and Melilla; one by each of the provincial deputations and inter-island communal councils of the Canary Islands; two by the members of each of the royal academies belonging to the Spanish Institute; two by the members of the higher council for scientific research; one by the president of the association of engineers; two by the bar associations; two by the medical association; one each by the pharmacists association, the veterinarians association, the architects association, the association of bachelors and doctors of arts and sciences, the public notaries association, the national corporation of registrars, and the association of solicitors; three by each of the official chambers of commerce; and a number, not to exceed one-third of the total number of members of the Cortes, by the national syndicates.¹

The president, vice-presidents, and secretaries of the Cortes are appointed by the Chief of State.² The Cortes meets either in full session or in committees. The committees are appointed, and the agenda both for the full sessions and for the committees are prepared, by the president of the Cortes with the agreement of the government.³

EXECUTIVE DEPARTMENT

The executive power is exercised by the Chief of State with the advice of the council of the kingdom, which must be consulted on matters of importance, including specifically return of bills to the Cortes for further study, declarations of war or signing of peace, and submission to the Cortes of the name of a successor to the Chief of State.⁴ The council of the kingdom consists of the president of the Cortes, the highest ranking prelate of the Catholic Church, the highest ranking officer of the land, sea, and air forces, the president of the council of state, the president of the Supreme Court, the president of the Spanish Institute, a councilor elected by each of the four groups represented in the Cortes (syndicates, local governments, university presidents, and professional associations),

¹ Act of July 17, 1942, as amended, Art. 2.

² Id., Art. 8.

³ Id., Art. 7.

⁴ Law of Succession, Arts. 2-5.

and three councilors named by the Chief of State from the membership of the Cortes.¹

JUDICIAL DEPARTMENT

The judiciary, other than a special labor judiciary contemplated in the Labor Charter,² is not provided for in the fundamental laws, but functions with independence according to custom and under other statutes.

AREA, POPULATION, LANGUAGE

Spain has an area of 196,607 square miles and an estimated population of 27,500,000. The language of the country is Castilian.

CHARTER OF THE SPANISH PEOPLE³

July 16, 1945

Art. 1. The Spanish State proclaims as a guiding principle of its acts, respect for the dignity, integrity, and liberty of the human person, recognizing man, as bearer of eternal values and member of the national community, to be holder of titles of duties and rights, the exercise of which it guarantees for the common good.

TITLE I

Duties and Rights of the Spanish people

Chapter I

Art. 2. Spaniards owe faithful service to their country, loyalty to the Chief of State and obedience to its laws.

Art. 3. The law protects equally the rights of all Spaniards without class preference or discrimination of persons.

Art. 4. Spaniards have a right to the respect of their personal and family honor. He who should offend it, whatever be his condition, will be made responsible.

Art. 5. All Spaniards have a right to receive education and instruction and the duty of acquiring them either in the family circle or in private or public centers of their own free election. The State will see that no talent is wasted because of lack of economic means.

Art. 6. The profession and practice of the Catholic religion, which is that of the Spanish State, will enjoy official protection.

Nobody will be molested because of his religious beliefs or the private exercise of his cult. No external ceremonies or manifestations will be permitted except those of the Catholic religion.

¹ Law of Succession, Art. 4.

² Labor Charter, Art. VII.

³ Translations of Spanish constitutional documents were kindly provided by the Spanish Embassy in Washington, D. C.

Art. 7. It is a title of honor for Spaniards to serve in the armed forces of their country.

All Spaniards are obliged to this service when they are called to it according to law.

Art. 8. By means of laws, and always with a general character, those personal services that the interest of the nation and public need require will be obligatory.

Art. 9. Spaniards will contribute to the maintenance of public charges according to their economic capacity. Nobody will be obliged to pay tributes that have not been established by law voted by the Cortes.

Art. 10. All Spaniards have a right to participate in public office of a representative character, through the family, the municipality, and the syndicate (without barring other representation that the laws may establish).

Art. 11. All Spaniards may hold office and public functions according to their merits and capacity.

Art. 12. All Spaniards may freely express their ideas as long as they do not advocate the overthrow of the fundamental principles of government.

Art. 13. Inside national territory, the State guarantees the liberty and inviolability of correspondence.

Art. 14. Spaniards are at liberty to fix their residence inside national territory.

Art. 15. Nobody may enter the home of a Spaniard or effect a search in it without his permission, unless with a warrant from the competent authority and in the case and form established by law.

Art. 16. Spaniards may unite and associate themselves freely for lawful ends and according to what is established by law.

The State may create and maintain such agencies as are deemed necessary for the accomplishment of its service. Fundamental rulings which will have the character of law, will co-ordinate the exercise of this right with that recognized in the preceding paragraph.

Art. 17. Spaniards have a right to legal security. All organisms of the State will act according to a hierarchical order of pre-established rulings, that may not be interpreted arbitrarily or altered.

Art. 18. No Spaniard may be arrested except in the cases and in the form prescribed by law. Within a period of seventy-two hours all arrested persons will be set free or turned over to the juridical authorities.

Art. 19. Nobody may be condemned except under a law prior to the act, under sentence by a competent tribunal, and after hearing and defense of the interested party.

Art. 20. No Spaniard may be deprived of his nationality except for treason, as defined in the penal laws, or for entering the armed services or exercising public office in a foreign country against the expressed prohibition of the Chief of State.

Art. 21. Spaniards may address individual petitions to the Chief of State, to the Cortes, and to public authorities.

Corporations, public officers, and members of the armed forces and institutions may only exercise this right according to the laws by which they are ruled.

Chapter II

Art. 22. The State recognizes and protects the family as a natural and fundamental institution of society with rights and duties prior and superior to all human positive law.

Matrimony is one and indissoluble.

The State will specially protect families with numerous children.

Art. 23. Parents are obliged to provide for, educate, and instruct their children. The State will suspend the exercise of *patria potestad* or will deprive of it all who do not exercise it with dignity, and will transfer the custody of minors to those to whom it corresponds by law.

Chapter III

Art. 24. All Spaniards have a right to work and the duty to occupy themselves in some socially useful activity.

Art. 25. Work, because of its essentially human character, cannot be reduced to the idea of merchandise, or be the object of a transaction incompatible with personal dignity. It constitutes in itself an attribute of honor and a sufficient title to demand guardianship and assistance from the State.

Art. 26. The State recognizes in an enterprise a community of efforts of technique, labor, and capital in their different forms, and consequently proclaims the right of these elements to participate in gains.

The State will see that relations between them shall be maintained in the strictest equity and in an order that subordinates economic values to human values, to the interests of the nation and the exigencies of the common good.

Art. 27. All workers will be protected by the State in their right to a just and sufficient return, which will as a minimum provide them and their families with well-being sufficient for a moral and dignified existence.

Art. 28. The Spanish State guarantees the workers security in distress, and recognizes their rights to assistance in the cases of old age, death, sickness, maternity, accidents, invalidity, unemployment, and other hazards that are the object of social insurance.

Art. 29. The State will maintain institutions of assistance and will protect and foster those created by the Church, the corporations, and private enterprise.

Art. 30. The Spanish State recognizes and protects private property as a natural means for the fulfillment of individual ends.

All forms of property remain subordinated to the necessities of the nation and to the common good.

No source of wealth will be allowed to remain unproductive, unduly destroyed, or applied to illicit ends.

Art. 31. The State will make available to all Spaniards the access to those forms of property more intimately connected with the human person, the home, inheritance, implements of production, and goods of daily use.

Art. 32. In no case will a sentence of confiscation of property be passed.

Nobody may be expropriated except in the interest of public and/or social welfare, after corresponding indemnity and according to what the law disposes.

TITLE II

The Exercise and Guarantees of the Rights

Art. 33. The exercise of the rights that are recognized in this Charter may not prejudice the spiritual, national, and social unity of the community.

Art. 34. The Cortes will vote the necessary laws for the exercise of the rights recognized by this Charter.

Art. 35. The enforcement of Articles 12, 13, 14, 15, 16, and 18 may temporarily be suspended in part or in whole by the government by means of a decree which must define and limit the scope and duration of this measure.

Art. 36. Any violation of any of the rights proclaimed in this Charter will be punishable by laws which will determine, in each case, the actions that may be taken in its defense before the competent jurisdictions.

ACT OF JULY 17, 1942 CREATING THE SPANISH CORTES As amended by Act of March 9, 1946

Art. 1. The Cortes are the superior body through which the Spanish people participates in the tasks of government. The principal mission of the Cortes consists in the preparation and elaboration of laws, subject to the concurrence of the Chief of State.

Art. 2. The members (*procuradores*) of the Cortes are ex-officio or elective, to wit:

- (a) The Ministers [of State];
- (b) The national councilors;
- (c) The presidents of the council of state, of the Supreme Court of Justice, and of the supreme court of military justice;
- (d) Representatives of the national syndicates (guilds and labor unions) not to number more than one-third of the total number of the members;
- (e) The mayors of the fifty provincial capitals, those of Ceuta and Melilla (Morocco), and a representative for each of the other municipalities within each province, elected by the municipalities from among their numbers; a representative for each provincial deputation and inter-island communal council of the Canary Islands, elected by these corporations from among their numbers;
- (f) The presidents of the universities;
- (g) The presidents of the Spanish Institute and two representatives elected from among the members of the royal academies of which it is composed; the president of the higher council for scientific research, and two representatives of the same elected from among its members;
- (h) The president of the institute of civil engineers and one other representative of the same, elected by the president of the association of engineers; two representatives of the bar associations; two representatives of the medical association; a representative of the pharmacists association; a representative of the veterinarians association; a representative of the architects association; a representative of the association of bachelors and doctors of arts and sciences; a representative of the public notaries association; a representative of the national corporation of registrars; and one representative of the association of solicitors—all elected by their respective associations; three repre-

sentatives of the official chambers of commerce, elected by their respective chambers;

(i) Those persons who through their ecclesiastical, administrative, military, or other public rank, or through their outstanding service to Spain, should be nominated by the Chief of State, in a number not to exceed fifty.

Art. 3. To be a member of the Cortes, the following qualifications are required:

(1) To be a Spanish citizen and of age;

(2) To enjoy full civil rights and not to be under civil and public inhabilitation consequent to penal sentence.

Art. 4. Members of the Cortes shall establish before the president of the same the election, nomination, or office which entitles them to membership. The president of the Cortes shall swear them in, seat them, and issue the corresponding titles.

Art. 5. The members of the Cortes cannot be arrested without previous authorization by their President, except in cases of flagrante delictu. In this case, the president of the Cortes shall be notified.

Art. 6. Ex-officio membership of the Cortes shall be predicated upon the tenure of office to which a member was elected or chosen. Those nominated by the Chief of State shall lose their membership through his revocation. Otherwise, the term of membership shall be for three years, and members may be re-elected; but if during these three years, a representative of a deputation, municipality, or corporation ceases in such office, he shall cease to be a member.

Art. 7. The president, the two vice-presidents, and the four secretaries of the Cortes shall be nominated by decree of the Chief of State.

Art. 8. The Cortes may meet in full session and in committees. The committees are created and appointed by the president of the Cortes, with the government's agreement. The President also establishes, with the government's agreement, the agenda for both full sessions and committees.

Art. 9. The Cortes shall meet in full session for the study of laws which so require, and whenever called by the president, with the government's agreement.

Art. 10. The full session of the Cortes shall be required to pass upon laws bearing on any of the following matters:

- (a) Ordinary and extraordinary budgets of the State;
- (b) Important economic or financial bills;
- (c) The creation or amendment of the system of taxation;
- (d) Bank and currency regulations;
- (e) The economic activity of the syndicates and legislation fundamentally affecting the national economy;
- (f) Basic laws regulating the acquisition and loss of Spanish citizenship and the rights and duties of Spaniards;
- (g) The political-legal organization of the institutions of government;
- (h) The regulation of local government;
- (i) Fundamental aspects of civil, mercantile, social, penal, and procedural law;
- (j) Fundamental aspects of the judiciary and public administration;
- (k) The regulation of agriculture, commerce, and industry;
- (l) The laws affecting national education;
- (m) Any other law which the government on its own initiative, or on that of the respective committees of the Cortes, should decide to submit to a full

session of the Cortes. The government may also submit to full session measures which do not have the character of law.

Art. 11. Proposed laws to be submitted to the full session shall previously be studied and reported on by the respective committees.

Art. 12. The committees of the Cortes have jurisdiction over all other legislation not included in Article 10, but which has the character of law, either because it is established in a law subsequent to the present, or because it is ordered by a committee composed of the president of the Cortes, a minister appointed by the government, a member of the political council, a member of the Cortes with a law degree, the presidents of the council of state and of the Supreme Court of Justice. This committee shall report by request of the government, on the initiative of the latter, or on that of the president of the Cortes.

Art. 13. In the event of war or emergency, the government shall be empowered to regulate, by decree-law, matters covered by Articles 10 and 12. Immediately after the publication of the decree-law, the government shall inform the Cortes of the same.

Art. 14. The Cortes in full session or in committees, according to the circumstances, shall be heard for the ratification of treaties affecting matters within the competence of the Cortes, as specified in the above articles.

Art. 15. The legislative committees, apart from passing on projected laws of the government, may propose laws to the president of the Cortes, who, by agreement with the government, shall include them in the agenda.

The legislative committees may be empowered by the president of the Cortes to study special subjects, carry out investigations, and draft petitions or suggestions. For this purpose, they may establish special committees as distinct from legislative committees.

Art. 16. The president of the Cortes shall send laws drafted by the same to the government for their approval by the Chief of State.

Art. 17. The Chief of State may return laws to the Cortes for further study.

Additional Articles to 1942 Act

1. The Cortes shall establish with government agreement their rules of procedure and by-laws.

2. Elections for those members who hold elective seats shall be announced during the first fifteen days of October.

Additional Articles to 1946 Act

1. The members elected by the municipalities and deputations, to which reference is made in Article 2 (e), shall lose their mandate when elections are held for renewal of municipal and provincial government.

2. The present elective members of the Cortes shall continue to hold their mandates until the first of May of this year, when the new members shall be elected.

REFERENDUM ACT

October 22, 1945

All Spaniards are entitled to co-operate in the tasks of the State through the natural institutions constituted by the family, the municipal

corporations, and the syndicates, and the basic laws, which are to give new life and greater spontaneity to these institutions within a system of Christian life in common, having been published with the object of protecting the nation against the error observed in the political history of peoples which cause the will of the nation to be supplanted by the subjective judgment of its rulers in matters of major importance. The Head of the State, invoking the faculties conferred upon him by the Acts of the thirtieth of January, 1938 (R.1938,91) and the eighth of August, 1939 (R.1939,970), has thought fit to institute a direct consultation of the nation by public referendum when he considers such consultation opportune and advisable owing to the exceptional importance of the laws or the uncertainty of public opinion.

In virtue of which, I declare:

Art. 1. When the exceptional importance of any law makes it advisable or the public interest so demands, the Head of the State shall be empowered, in order to serve the nation more faithfully, to submit to referendum a bill drafted by the Cortes.

Art. 2. The government is hereby authorized to issue complementary orders for the compiling of the register of voters and the execution of the present act.

LAW OF SUCCESSION TO THE CHIEF OF STATE

June 7, 1947

Art. 1. Spain, as a political unit, is a Catholic, social, and representative state which, in accordance with its traditions, declares itself to be a kingdom.

Art. 2. The office of Chief of State is held by the Caudillo of Spain and of the Crusade, Generalissimo of the Spanish Armies, Don Francisco Franco Bahamondo.

Art. 3. Should the Office of Chief of State fall vacant, its powers shall be exercised by a council of regency composed of the president of the Cortes, the highest prelate of the hierarchy [of the Church], councillor of the kingdom, and the captain-general of the land, sea, and air forces or the highest ranking lieutenant-general, in that order. The president of the council shall be the president of the Cortes and its decisions, to be legal, must be passed upon by two of its three members and always by the president.

Art. 4. A "council of the kingdom" shall advise the Chief of State on all matters and resolutions which are of importance and proper to this office. Its president shall be the president of the Cortes and its members the following:

- The highest ranking prelate of the hierarchy, member of the Cortes;
- The captain-general of the land, sea, and air forces, or the highest-ranking lieutenant-general on the active list, in that order;
- The president of the council of state;
- The president of the Supreme Court;
- The president of the Spanish Institute;
- A councilor elected by each of the groups represented in the Cortes:

- (a) Syndicates (trades-unions and labor-unions),
- (b) Local government,
- (c) University presidents,
- (d) Professional associations;

Three councilors named by the Chief of State from the membership of the Cortes, one from the ex-officio members, one from those named by him, and one from the elective members.

Membership of the council shall be predicated on the tenure of the office to which the councilor was elected or chosen.

Art. 5. The Chief of State shall necessarily consult the council of the kingdom on the following:

- (1) Return for further study to the Cortes of laws prepared by it;
- (2) Declaration of war or signing of peace;
- (3) Submission of the name of the successor to the Cortes;
- (4) All matters stipulated by this law.

Art. 6. At any moment the Chief of State may submit to the Cortes the name of the person he believes should succeed him, either as king or as regent, and according to the conditions stipulated by this law; he may also, likewise, submit to the Cortes the repeal of any previous proposal of succession, although this last may have already been accepted by the Cortes.

Art. 7. Should the office of Chief of State be vacant and the successor appointed as by the previous article, the council of the regency shall assume the powers of this office to call a joint session of the Cortes and the council of the kingdom to take the successor's oath of office as prescribed in this law and to name him king or regent.

Art. 8. Should the Chief of State die or be declared incapable of exercising office without a successor having been named, the council of the regency shall assume full powers and, within a period of three days, shall call a meeting of the members of the government and the council of the kingdom who, in an uninterrupted and secret session, shall decide, by a minimum of two-thirds, on the person of royal blood whom, possessing the conditions stipulated by this law, and in consideration of the superior interests of the nation, they shall propose to the Cortes as king.

If in the judgment of this session there exists no person of royal blood fulfilling the necessary requirements, or if their proposal shall not be accepted by the Cortes, they shall propose as regent that person who, on the basis of prestige, qualifications, and possible services to the nation, should hold the office. On making this proposal, the session may fix a time limit and other conditions to the regency, and the Cortes shall pass on each of these.

A plenary session of the Cortes shall be held within eight days, and the successor, having obtained the approval of the Cortes, shall take the oath of office stipulated by this law, in virtue of which the council of regency shall immediately cede its powers to the successor.

Art. 9. To exercise the office of Chief of State as king or regent, it shall be necessary to be male, Spanish, to be thirty years of age, to profess the Catholic religion, to possess those qualities necessary to fulfill the high office, to pledge respect of the fundamental laws and to swear to uphold the principles of the national movement.

Art. 10. The fundamental laws of the nation are: The Charter of the Spanish People, the Labor Charter, the Constituent Law of the Cortes,

the present Law of Succession, the Law of National Referendum, and whatever other law shall be latterly promulgated as fundamental.

To repeal or modify these laws, a national referendum shall be required, as well as the approval of the Cortes.

Art. 11. Once the person of the king has been named, the regular succession will be that of primogeniture and representation, with preference to the older over the younger line; within the same line, to the closer over the more distant grade of relationship; within the same grade, to the male over the female, who shall not be able to reign but who shall, in such cases, transmit her rights to her male heirs; and within the same sex, the older over the younger; all without prejudice to those exceptions and requisites set forth in the articles of this law.

Art. 12. All delegation of rights before assuming the throne, abdication once the successor has been named, renunciation in any case, royal marriage and marriage of the immediate successor must be approved by the Cortes after report from the council of the kingdom.

Art. 13. On the advice of the council of the kingdom, the Chief of State may submit to the Cortes the exclusion from succession of those persons of royal blood who lack the necessary capacity to govern or, because of their noted indifference to the basic principles of the State or because of their actions, have forfeited their rights to succession as established by this law.

Art. 14. The incapacity of the Chief of State, appraised by two-thirds of the members of the government, shall be communicated by report to the council of the kingdom. Should the council agree to this report, by two-thirds majority, its president shall submit it to the Cortes which, meeting within eight days, shall adopt the necessary measures.

Art. 15. Any act taken under this law by the Cortes must be approved by a majority of two-thirds of the members present who must form an absolute majority of the total membership of the Cortes.

LABOR CHARTER

Declaration of March 9, 1938, converted into basic law of the nation by the referendum of July 6, 1947

Renewing the Catholic tradition of social justice and human feeling which inspired the laws of the Spanish Empire, the State—national inasmuch as it is an instrument completely at the service of the whole country, and syndicalist inasmuch as it stands for reaction against both liberal capitalism and Marxist materialism—undertakes the task of carrying out, with militant, constructive, and religious spirit, the revolution of which Spain is in need and which is to restore permanently to Spaniards country, bread, and justice.

To achieve this end—and laboring for the unity, freedom, and greatness of Spain proclaimed by our motto—the State shall enter the social sphere with the resolve to place wealth at the service of the Spanish people and to subordinate its economy to this purpose.

Basing its action upon the concept of Spain as a unit with a common destiny, it declares, herewith, its desire that the production of Spain—in the brotherly union of its elements—should also be a unit contributing to the strength of the country and an instrument of security.

By these declarations which are to inspire its social and economic policy, the recently-established Spanish State faithfully expresses the desires and the demands of all those who are fighting in the trenches and who, because of their honor, courage, and work, are the aristocracy of this age.

Before all Spaniards, irrevocably united in sacrifice and hope, WE DECLARE:

I

1. Work is man's share in production through the voluntary contribution of his intellectual and manual faculties, according to personal vocation, with a view to decency and ease in his own life and the greater development of the nation's economy.

2. Because it is essentially personal and human, work cannot be debased to the material concept of merchandise, nor can it be the object of transactions incompatible with the personal dignity of man.

3. The right to work is consequent to the duty imposed by God upon man to achieve his individual end and the prosperity and greatness of the country.

4. The State values and esteems the performance of work as the fruitful expression of man's creative spirit, it shall protect it by virtue of the law, concede it every consideration and make it compatible with the fulfillment of man's other individual ends in the family and society.

5. The performance of work in any form, as a social duty, shall be required from all able-bodied Spaniards, as an obligatory contribution to the nation's wealth.

6. Work constitutes one of the noblest attributes of rank and honor and constitutes sufficient title to help and protection from the State.

7. Service is work performed with heroism and abnegation, because of a desire to contribute to that higher good represented by Spain.

8. All Spaniards have a right to work. The satisfaction of this right is the State's first mission.

II

1. The State undertakes to exert constant and effective action on behalf of workers, their life, and their means of livelihood. It shall limit the duration of the working day so that it may not be excessive, and shall grant labor every kind of defensive and humanitarian guarantee. It shall expressly forbid night work of women and children, regulate work at home, and free married women from the need to work in shops and factories.

2. The State shall maintain Sunday rest as a condition sacred to work.

3. The law shall oblige all concerned to keep traditional prescribed religious feasts and declared civic holidays, to attend the ceremonies ordered by the national heads of the movement, without loss of pay but providing for the technical needs of industry and trade.

4. The eighteenth of July, the anniversary of the uprising, having been declared a national feast, it shall be considered the feast of "the exaltation of labor."

5. Every worker shall be entitled to a yearly holiday with full pay to enable him to take a well-earned rest, and institutions to ensure the fulfillment of this clause shall be established for that purpose.

6. The necessary institutions shall be set up to give workers access, during their spare time and hours of recreation, to the enjoyment of all the benefits of culture, military service, health, and games.

III

1. Remuneration for work shall be sufficient, as a minimum, to enable the worker and his family to live a moral and dignified life.

2. Family allowances shall be established by means of special agencies.

3. Gradually and inflexibly, the standard of living of workers shall be raised in a measure compatible with the higher interests of the nation.

4. The State shall fix the bases for the regulation of work and the relations between employers and employees shall be ruled by these. The performance of work and its remuneration, the reciprocal duty of honesty, aid, and protection on the part of employers and loyalty and subordination on that of employees shall be the matter of these regulations.

5. Through the syndicates, the State shall seek information as to whether the financial and other conditions of work are those to which workers are justly entitled.

6. The security and permanence of workers in their employment shall be of concern to the State.

7. As stipulated by the law, employers shall be obliged to keep their staffs informed of the progress of production and thus strengthen the workers' sense of responsibility.

IV

1. Craftsmanship—a living legacy of the old guilds—shall be encouraged and effectively protected, for it is the projection of the human person in work and represents a form of production equally distant from capitalist concentration and Marxism.

V

1. The regulations for work on the land shall be adjusted to the special circumstances of such work and to the seasonal changes imposed by nature.

2. The State shall provide specially for the technical training of agricultural producers, fitting them to perform all the jobs required by their specialty.

3. The prices of main products shall be controlled and reassessed in order to ensure employers on the land a minimum profit in normal circumstances and, as a consequence of this, to make it possible to exact wages that shall enable workers to improve their living conditions.

4. An aim shall be to endow every peasant family with a small holding, or family garden, so that its members may provide their elementary needs and be occupied in their spare time.

5. The embellishment of rural life shall be achieved by perfecting rural dwellings and improving the hygienic conditions of the villages and hamlets of Spain.

6. The State shall guarantee the tenant-farmers security in the cultivation of the land by means of long-term contracts ensuring them against unjustified eviction and enabling them to recover the money spent in improving their farms. The State desires to intervene in order to make the land pass, on just terms, into the ownership of those who work it directly.

VI

1. The State shall attend with special care to those who earn their living on the sea, providing them with institutions capable of preventing the depreciation of their goods and making it easier for them to attain to the ownership of the necessary implements for the plying of their trade.

VII

1. A new labor judiciary shall be created, governed by the principle that this function of justice belongs to the State.

VIII

1. Capital is an instrument of production.

2. The company, as a producing unit, shall regulate its elements in such a way as to give precedence to the human over the instrumental, and subordinating them all to the common good.

3. The head of the company shall himself assume its direction and shall be responsible to the State.

4. The company's profits, after payment of a just interest on capital, shall be applied to building up reserves needed to ensure its stability, perfect its production, and improve the working and living conditions of its employees.

IX

1. Credit shall be regulated in such a way that, in addition to performing its function of developing the nation's wealth, it shall contribute to the creation and maintenance of small agricultural, fishing, industrial, and commercial holdings.

2. Honor and trust, founded on competence and work, shall constitute effective guarantees for the granting of loans.

The State shall prosecute all forms of usury.

X

1. Provident foresight shall give workers the certainty of help in misfortune.

2. Social insurance providing for old age, incapacity, maternity, industrial accidents, occupational diseases, tuberculosis, and forced unemployment shall be provided and the aim shall be total insurance. The first objective shall be the providing of adequate pensions to aged workers.

XI

1. National production constitutes an economic unit at the service of the country. It is the duty of all Spaniards to defend, improve, and increase it. All factors concerned in production shall be subordinated to the higher interest of the nation.

2. All individual or collective acts that in any way disturb the normalcy of production or militate against it shall be considered as crimes against the nation.

3. Any wilful lowering of output at work shall be penalized.

4. As a general rule, the State shall not enter the business field except where private enterprise is lacking or when the interests of the nation so demand.

5. The State, either through its agencies or through syndicates, shall prevent all unfair competition in the fields of production, as well as all such activities as may prejudice the normal establishment or development of national economy, and, on the other hand, it shall encourage all such activities as may lead to the perfection of this economy.

6. The State recognizes private initiative as the well-springs of the economic life of the nation.

XII

1. The State recognizes and protects private enterprise as a natural means for the performance of individual, family, and social functions. All forms of property shall be subordinated to the interest of the nation, whose interpreter is the State.

2. The State assumes the task of multiplying the forms of ownership vitally bound to the human person and making them accessible to all Spaniards; i.e., the home, small land holdings, and the working instruments or goods of daily use.

3. It recognizes the family as the primary natural unit, the basis of society, and as a moral institution endowed with rights that are inalienable and above all positive law. In order better to guarantee its preservation and continuity, family heritages are not subject to seizure.

XIII

1. The national syndicalist organization of the State shall be inspired on the principles of unity, universality, and order.

2. All factors of the nation's economic life shall be grouped, by branches of production or service, in vertical syndicates. The liberal and technical professions shall be organized in a similar way, to be determined by law.

3. The vertical syndicate is a corporation of public law constituted by the enrollment in a single agency of all the elements that devote their activities to the fulfillment of the economic process within a specified service or branch of production regulated under the direction of the State.

4. The vertical syndicate is an instrument at the service of the State, by means of which the latter shall mainly carry out its economic policy. The syndicate must know the problems of production and propose solutions for them, subordinating these to the national interest. The vertical syndicate shall be empowered to intervene, through the conduct of specialized bureaus, in the regulation, supervision, and enforcement of working conditions.

5. The vertical syndicate may set up, maintain, or control bureaus for research; moral, physical, and vocational training; and charity, help, and social work, in the interests of the producers.

6. It shall set up labor exchanges to provide employment for workers in keeping with their abilities and qualifications.

7. It is the task of the syndicates to furnish the State with such data as are required for the drawing up of production statistics.

The law of the syndicates shall specify the manner in which the existing economic and professional associations are to be incorporated into the new organization.

XIV

1. The State shall issue the necessary orders to protect national labor within our territory and, by means of labor treaties with other powers,

it shall take steps to ensure the status of Spanish workers residing abroad.

XV

1. At the time when this Charter is published, Spain is engaged in a heroic military task in which she is preserving the values of the spirit and of world culture at the expense of a great part of her own material wealth.

National production must correspond in all its phases to the generosity of our fighting youth and to that of Spain itself.

Therefore, in this Charter of rights and duties, we hereby declare as urgent and inevitable that the elements of production should resolutely contribute their fair share to the remaking of Spain and the bases of its strength.

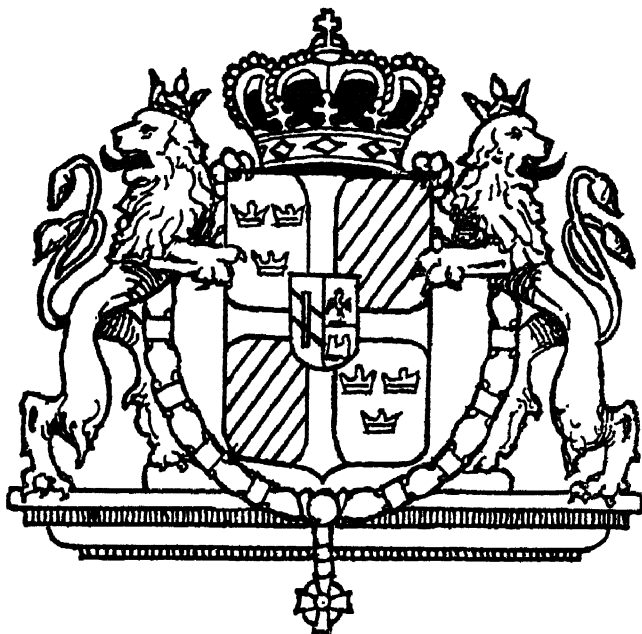
XVI

1. The State undertakes to place its fighting youth in positions of work, honor, and command, to which they are entitled as Spaniards and which they have won as heroes.

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SWEDEN

SUMMARY

INTERNATIONAL STATUS

Sweden was not an original member of the United Nations, but it was granted membership on November 9, 1946. It was neutral during World War II.

It was a member of the League of Nations and signed the Paris Pact of 1928. It signed and ratified the Statute of the Permanent Court of International Justice and accepted the optional clause. It is subject to the compulsory jurisdiction of the International Court of Justice under Article 36 of its Statute.¹ It is a member of the Postal Union, and numerous other international organizations.

¹ See Yearbook of the Court 1947-48, p. 31; also Documents & State Papers, U. S. Dept. of State, June 1948, Vol. 1, No. 3, pp. 192, 203.

In the middle of the fourteenth century, Sweden received its first code of law. Until the sixteenth century the Swedish monarchy was elected and was dependent on a powerful feudal aristocracy. In 1523 Gustavus Vasa was elected King after driving the Danes out of Sweden, and the crown became hereditary. The Riksdag gradually was accepted as a permanent institution, and in 1617 the first organic law determining parliamentary forms was promulgated. In the eighteenth century the powers of the legislative branch expanded at the expense of the executive branch until the *coup d'état* of 1772 and the Acts of Union and Settlement of 1789 set up an absolute monarchy under Gustavus III.

During the Napoleonic wars, Russia in 1809 took Finland from Sweden. The latter joined the allies against Napoleon later, and in 1814 Norway was united to Sweden.

For more than one hundred years Sweden's foreign relations have been peaceful. It became a member of the League of Nations in March, 1920, and in June of that year accepted an adverse decision from the Council on the Aaland question.

FORM OF NATIONAL GOVERNMENT

Sweden has a written constitution adopted in 1809, with several amendments, and the Organic Law of the Riksdag, adopted June 22, 1866. The Constitution declares that Sweden is an hereditary monarchy.¹

This Constitution was enacted after the deposition of the king and the election of a new one, Charles XIII. It repeals the previous constitution of 1772 and fundamental laws such as the Act of Union and Act of Settlement of 1789, the Riksdag Law of 1617, and others.²

SOURCE OF SOVEREIGN POWER

The source of sovereign power is not expressly stated, but the constitution was promulgated by "the undersigned estates, counts, barons, bishops, nobles, clergy, burghers, and common peasants"; and was confirmed by the King.³

RIGHTS OF THE PEOPLE

The Constitution provides that the King shall not deprive anyone or allow anyone to be deprived of life, honor, personal liberty, or well-being without legal trial and sentence; that he shall not deprive anyone or permit anyone to be deprived of real or personal property without due trial and judgment in accordance with the provisions of the Swedish law and statutes; that he shall not disturb or allow to be disturbed the peace of any person in his home; that he shall not banish any person from one place to another; that he shall not constrain or allow to be constrained the con-

¹ Const. of 1809, Art. 1.

² Id., Preamble.

³ Id., Preamble.

science of any person, but shall protect everyone in the free exercise of his religion, provided he does not thereby disturb public order or occasion general offense; and that he shall cause everyone to be tried by the court to the jurisdiction of which he is properly subject. It also declares to be a constitutional law the law to be adopted regarding freedom of the press, and it provides that "the ancient privileges, advantages, rights, and liberties of the estates of the kingdom shall remain in force."¹

LEGISLATIVE DEPARTMENT

Legislative power is exercised by the Riksdag, which is divided into two chambers. Their composition is determined by the Riksdag Law.² Provision is made for a foreign affairs committee of sixteen members with which the King must consult "concerning the relations of the kingdom with foreign powers."³

The one hundred and fifty members of the upper chamber are elected by the provincial councils for a term of eight years.⁴ The lower chamber consists of two hundred and thirty members who are elected for four years by direct universal suffrage.⁵

EXECUTIVE DEPARTMENT

Executive power is vested in the King.⁶ Provision is made for a council of state composed of the heads of departments of administration and not less than three councilors without portfolio; all government business except that relating to matters of military command must be decided upon by the King in council of state.⁷ In practice, executive power is in the hands of the council, which acts as a cabinet and is responsible to the majority in Parliament.

JUDICIAL DEPARTMENT

The judicial power, which belongs to the King, is vested in not less than twelve lords justices appointed by the King who form the Supreme Court.⁸ It is the final court of appeal and decides on the proper interpretation of laws.⁹ Three of its members plus one legal member of the supreme administrative court form the King's law council, which gives its opinion on proposals of law or statutes referred to it by the King.¹⁰

AREA, POPULATION, LANGUAGE

Sweden has an area of 173,347 square miles and a population of 6,800,000. The language is Swedish.

¹ Const. of 1809, Arts. 16, 85, 114.

² Id., Art. 49.

³ Id., Art. 54.

⁴ Organic Law of the Riksdag of 1866, Art. 6.

⁵ Id., Arts. 13, 16.

⁶ Const. of 1809, Art. 1.

⁷ Id., Arts. 4, 5, 6, 7.

⁸ Id., Art. 17.

⁹ Id., Arts. 18, 19.

¹⁰ Id., Art. 21.

CONSTITUTION¹

of the

KINGDOM OF SWEDEN

June 6, 1809, as amended

WE, CARL, by the Grace of God King of Sweden, the Goths, and the Wends, &c., &c., &c., Heir to Norway, Duke of Schleswig-Holstein, Stormarn, and Ditmarsen, Count of Oldenburg and Delmenhorst, &c., &c., &c., hereby make known that we, having with unlimited confidence unconditionally entrusted to the estates of the country the drawing up of a new constitution, to form in perpetuity the basis of the happiness and independence of a common fatherland, do carry out a duty dear to our heart and aspired after when we by these presents publicly promulgate the fundamental law which has, after the most careful consideration, been unanimously enacted and accepted by the estates now assembled and delivered to us in the hall of state this day, in conjunction with their voluntary and unanimous offer of Sweden's crown and government. As we, with deepest emotion and loving participation in the fortunes of the people who have given us such an unforgettable proof of confidence and affection, have acceded to this their desire, we have attached a much more certain hope for the success of our unremitting endeavors to serve the welfare of the fatherland, inasmuch as our and our subjects' mutual rights and obligations are so clearly laid down in the new Constitution that they incorporate the Swedish nation's liberty as by law established while maintaining the sanctity of the crown and its capacity of action. We are, consequently, pleased to adopt, accept and confirm this constitution approved by the estates of the kingdom, exactly as it follows textually:—

We, the undersigned estates, counts, barons, bishops, nobles, clergy, burghers, and common peasants who are now, on our own behalf and that of our brethren at home, met in a general national assembly, hereby make known that, in consequence of the recent change of rule, to which we have given our unanimous ratification, we delegates of the Swedish nation have acquired the right, by drawing up an amended State constitution, ourselves to ameliorate the condition of the fatherland in the future; we have, therefore, in repealing the fundamental laws more or less in operation prior to the present, namely, the constitution of the twenty-first August, 1772, the Act of Union and Act of Settlement of the twenty-first February and the third April, 1789, the Riksdag Law of the

¹ See Vol. 132, *British & Foreign State Papers*, pp. 887 *et seq.* Translations of amendments since 1933 have been kindly provided by Mr. Gosta Brunnstrom and Mr. Erik de Braunerhielm, of the Swedish Embassy in Washington, and Dr. Gunnar Heckscher, a distinguished authority on Swedish constitutional law. The translation in *British & Foreign State Papers* has also been revised in accordance with suggestions of Dr. Heckscher.

twenty-fourth January, 1617, as well as all such other more ancient and modern laws, acts, decrees, enactments and decisions as have been comprised under the name of fundamental laws, agreed and confirmed that there be enacted for the kingdom of Sweden and lands subordinate thereto the following instrument of government, which shall be in operation from this day onwards as the principal constitutional law of the country; we reserve, moreover, the right to enact before this National Assembly closes, in the manner prescribed in Article 85 of this instrument of government, the remaining constitutional laws there specified.

Art. 1. The realm of Sweden shall be governed by a king and shall be a hereditary monarchy with the order of succession as established by the law of succession.

Art. 2. The King shall always belong to the pure evangelical faith, as adopted and explained in the unaltered Augsburg Confession and in the resolution of the Upsala Synod of the year 1593.

Art. 3. The person of the King shall be held sacred and revered; he shall not be subject to any prosecution for his actions.

Art. 4. The King alone shall govern the kingdom in accordance with the provisions of this instrument of government; he shall, however, in the cases hereafter specified, seek the information and advice of a council of state, to which the King shall summon and appoint capable, experienced, honorable, and generally respected native Swedish subjects who profess the pure evangelical faith. Persons related by direct ascending or descending kinship, brothers and/or sisters, and spouses, may not be members of the council of state at the same time.

Art. 5. For the various branches of administration of the kingdom, there shall be departments of state in the number determined by law enacted by the King and the Riksdag jointly.

The further distribution of duties among the departments shall be determined by the King in a special order, publicly promulgated.

For each department the King shall select a head and spokesman from among the members of the council of state. The head of the department to which foreign affairs appertain shall be the minister for foreign affairs.

Art. 6. The council of state shall be composed of heads of departments, together with not less than three councilors without portfolio, as determined by law enacted by the King and the Riksdag jointly. Of the councilors without portfolio at least two must have held civil office.

The King shall appoint one member of the council of state to be prime minister and principal member of the council.

The members of the council of state may be present at all business which is dealt with at the council.

Art. 7. All the business of the government, except that mentioned in Article 15, shall be submitted to the King in council of state and be decided there.

Art. 8. The King may not give a decision upon a matter upon which the council of state must be consulted, unless at least three councilors of state are present in addition to the one submitting the matter. Unless they have a legitimate excuse, all members of the council shall be present for the consideration of all measures of special weight and importance, which, according to the agenda previously circulated, are brought before the council and affect the general administration of the kingdom. Such measures are: questions and proposals regarding the adoption of new

general laws, the repeal or amendment of those hitherto in force, new general arrangements within the various branches of administration, and other questions of a similar character.

Art. 9. Minutes shall be kept of all measures which are submitted to the King in Council. When the safety of the kingdom is concerned, or particularly important reasons demand secrecy concerning the relations of the kingdom with foreign powers, separate minutes on the matter shall be kept.

Such members of the council of state as are present, being held responsible for their advice, with the consequences specified in Articles 106 and 107, are under the obligation to express and explain their opinions, which shall be entered in the minutes; nevertheless, it is reserved to the King alone to decide. Should at any time the unexpected event occur that the King's decision would be manifestly contrary to the constitution of the kingdom or its general laws, it shall be the duty of the members of the council of state to make energetic representations against such decision. Any member who does not separately enter his opinion in the minutes shall be held responsible as if he had supported the King in such a decision.

Art. 10. Before matters are submitted to the King in council, they shall be investigated by the member submitting them, who shall collect for this purpose the necessary information from the competent administrative offices.

Art. 11. In matters which concern the relations of the State with foreign powers, all communications to foreign powers or to the King's envoys abroad shall, without regard to the nature of the business, be made through the minister for foreign affairs.

Art. 12. The King shall have power to enter into agreements with foreign powers after the council of state has been heard upon the subject. When such agreements deal with matters which are required under this instrument of government to be decided by the Riksdag, either alone or with the King, or when, though not dealing with such matters, they are of major importance, they shall be laid before the Riksdag for approval; and such agreements shall contain a reservation making their validity dependent upon the Riksdag's sanction.

Should there be an occasion when the interests of the State require that agreements, which are of great importance but do not deal with matters required to be decided by the Riksdag, should be concluded without the confirmation of the Riksdag, this may be done, but in such circumstances the committee on foreign affairs or the advisory committee shall be given an opportunity to express its opinion before the agreement is concluded.

Art. 13. If the King wishes to declare war or to conclude peace, he shall convene all the members of the council of state in extraordinary council, lay before them the causes and circumstances to be considered, and ask for their opinions concerning the matter; each of them shall separately enter his opinion in the minutes, under the responsibility laid down in Article 107. The King may then make and execute such decision as he considers in the best interests of the kingdom.

Art. 14. The King shall be commander-in-chief of the armed forces of the kingdom.

Art. 15. Matters of military command, that is to say, those in which the King acts directly in his capacity of commander-in-chief of the armed

forces, shall be decided by the King, provided he is himself exercising the royal power, in the presence of the head of the department under whose authority the matter falls. The latter is bound, under his responsibility, to express his opinion upon the measures adopted by the King at the time when such measures are under consideration; when his opinion is not in conformity with the King's decision, he shall enter his objections and advice in a minute which the King shall authenticate with his royal signature.

The matters of government which are to be considered matters of military command shall be determined by a law enacted by the King and the Riksdag jointly.

Art. 16. The King shall maintain and further justice and truth, prevent and forbid iniquity and injustice; he shall not deprive anyone or allow anyone to be deprived of life, honor, personal liberty or well-being, without legal trial and sentence; he shall not deprive anyone or permit anyone to be deprived of any real or personal property without due trial and judgment in accordance with the provisions of the Swedish law and statutes; he shall not disturb or allow to be disturbed the peace of any person in his home; he shall not banish any person from one place to another; he shall not constrain or allow to be constrained the conscience of any person, but shall protect everyone in the free exercise of his religion, provided he does not thereby disturb public order or occasion general offense. The King shall cause everyone to be tried by the court to the jurisdiction of which he is properly subject.

Art. 17. The judicial power of the King shall be vested in at least twelve experienced and honest persons, learned in the law, who shall be appointed by him; they must have fulfilled the conditions required by law for the exercise of judicial functions. They shall be called "lords justices" and shall constitute the Supreme Court of Justice. Their number may not exceed twelve unless the King and the Riksdag decree, in accordance with Article 87, paragraph (1), that the Supreme Court shall work in divisions; in this case the number of lords justices, within the limits defined above, and the distribution of business between the divisions shall be regulated in the same ordinance. Further provisions as to the composition and services of the Supreme Court shall be prescribed by law, enacted by the King and the Riksdag jointly, in the order provided by Article 87, paragraph (1).

Art. 18. The King's right to examine and decide appeals which, according to the laws, may be brought before him in the departments of state shall, to the extent prescribed by a separate law enacted by the King and Riksdag jointly, as provided in Article 87, paragraph (1), be delegated to at least seven persons appointed by the King, who shall have held civil office and manifested insight, experience, and honesty. They shall be called "lords justices of administration" and constitute the Supreme Administrative Court. At least two thirds of the total number of justices shall have fulfilled the conditions required by law for the exercise of judicial functions. Further provisions as to the composition and services of the Supreme Administrative Court shall be prescribed by the law mentioned above.

Art. 19. It also appertains to the Supreme Administrative Court, in matters which may be submitted to its final examination, to receive and decide all petitions asking that the King may set aside judgments that

have acquired legal force or that he may grant relief from forfeiture resulting from the expiration of a legal term. All other petitions of the kind shall be decided by the Supreme Court.

Art. 20. Should requests be made to the King by courts or officials regarding the proper interpretation of the law in cases appertaining to the judiciary, the Supreme Court shall furnish such interpretation in cases within the sphere of the courts.

Art. 21. Three members of the Supreme Court and one of the legal members of the Supreme Administrative Court shall together constitute the King's law council.

It appertains to the law council to give its opinion on proposals for the enactment, annulment, amendment or elucidation of the laws or statutes which shall, for this purpose, be referred to them by the King.

Where it should prove necessary for certain business, the King may appoint one additional person known to possess insight, experience, and honesty, to be a member of the law council.

Further provisions as to the duties of the law council shall be prescribed by a law enacted by the King and Riksdag, as provided by Article 87, paragraph (1).

Art. 22. (1) Cases may be heard and decided in the Supreme Court by five lords justices. No more than seven members shall, at the same time, take part in the trial of any case, except in certain cases otherwise provided for in accordance with Article 87, paragraph (1). It shall similarly be determined how many lords justices shall take part in deciding the question whether cases appealed to the Supreme Court may be considered by it, whether such special permission is required by law, or in consideration of petitions appertaining to the Court according to Article 26.

(2) In the supreme administrative court, five members may hear and decide cases, and four members may do so when three are in agreement.

Art. 23. All decisions of the Supreme Court and of the supreme administrative court shall be promulgated in the name of the King and under his signature or seal.

Art. 24. The secretariat of the Supreme Court shall prepare judicial business for trial and decision by the Court.

Art. 25. Matters for the consideration and decision of the supreme administrative court shall be prepared by the department to which the business in question, as allotted under Article 5, belongs.

Art. 26. The King shall have power to grant pardons in criminal cases, to commute death penalties, to restore honors, and to return property forfeited to the crown. The Supreme Administrative Court shall, however, be consulted in such cases as, by their nature, come before it or before the court of exchequer for final consideration, but in other cases the Supreme Court shall be consulted; and the King's decision shall be taken in council of state. The offender shall then have the right to accept the pardon granted by the King or to suffer the punishment to which he has been sentenced.

Art. 27. The King shall appoint as attorney-general an able, impartial person, versed in the law, who has had experience as a judge. It shall be the principal duty of the attorney-general, as the highest legal officer of the King, to prosecute or cause prosecution to be made, in the name of the King, in cases which affect the public safety or the rights of the

crown; and also, on behalf of the King, to exercise supervision over the administration of justice, and in this capacity to prosecute for offenses committed by judges and officials.

Art. 28. The King in council of state shall have power to appoint and promote native Swedes to all offices and posts, high and low, for which the King's commissions are granted; the proper authority shall, however, first submit nominations when such a practice has theretofore been customary. The King may likewise, after having consulted the proper authorities or upon their nomination, appoint and promote foreigners of distinguished merit, professing the pure evangelical faith, to professorships in the universities, excepting, however, to the theological teaching staffs; to professorships or other positions in other institutions for science, manual training, or fine arts, as well as to medical appointments. The King may likewise employ foreigners of unusual ability in the military service, but not as commanders of fortresses. Foreigners may also be appointed as consuls, when there is no remuneration attached to the appointment.

Only persons professing the pure evangelical faith may be appointed to the priestly office or to other offices involving the obligation to give instruction in the Christian religion or in theology. To all other offices and positions, excepting membership of the council of state as provided by Article 4, persons belonging to another Christian faith or adherents of the Mosaic belief may be appointed; no person not belonging to the pure evangelical faith shall, however, take part, as judge or incumbent of any other office, in the discussion or decision of questions relating to divine worship, to religious instruction, or to appointments within the Swedish Church. No woman may be appointed to the priestly office unless otherwise provided in accordance with Article 87, paragraph (2).

In all promotions the King shall take into consideration only the merit and ability of the candidates, but not their birth. Each head of a department shall submit and deal with all business relative to the promotion, appointment, leave of absence, and discharge of all officials and employees in the offices and establishments under the department.

Art. 29. The King shall appoint the archbishop and bishops from a list of three candidates presented to him in the manner provided by the church law.

Art. 30. The institution of clergymen to congregations, and the rights which appertain to the King and to the congregations in this connection, shall be governed by a special law enacted in accordance with Article 87, paragraph (2).

Art. 31. For the office of burgomaster or legally trained associate justice in a city, the city council shall have the right to present three competent persons. From those presented, the King shall appoint one to the office.

Detailed provisions governing the election of candidates to be proposed for the above-mentioned offices shall be prescribed by a special law enacted by the King and the Riksdag jointly.

Art. 32. Before such offices, for which candidates have been proposed, are filled by the King, the members of the council of state shall express their views as to the competence and merits of the applicants. They shall also have the right to make dutiful representations against the King's appointments to other offices and positions.

Art. 33. The King shall have power to confer Swedish nationality on foreign men and women by means of naturalization, in the manner and upon the conditions determined by a special law enacted in accordance with Article 87, paragraph (1). A foreigner thus naturalized shall enjoy the same rights and privileges as a native-born Swedish citizen, except that he may not be appointed to membership of the council of state.

Art. 34. The prime minister and the minister for foreign affairs shall have the highest rank in the kingdom, and members of the council of state shall rank next. Members of the council of state may not perform the duties of or receive income from any other office. A lord justice of the Supreme Court or of the Supreme Administrative Court may not hold any other office or perform other duties.

Art. 35. The following hold posts of confidence, from which the King may remove them whenever he considers that the interests of the kingdom demand that course; members of the council of state, presidents and heads of administrative boards or of institutions established in their place, the attorney-general, the directors of the prisons, the land surveying service, the state railways, the pilotage, postal, telegraph, customs, and forestry services; the under-secretaries in the government departments; the governor, deputy governor, and chief of police of the capital; governors of counties, field-marsals, generals, and admirals of all grades, adjutants-general, adjutants-in-chief, and adjutants of the staff, commanders of fortresses, colonels of regiments, lieutenant-colonels of both cavalry and infantry regiments of guards and of the household guards as well as of other military corps and battalions having a separate organization, the chiefs of artillery, fortifications, and of the topographical and hydrographic surveys; ministers, envoys, and commercial agents in foreign countries, as well as officials and employees in the King's foreign office and in the missions abroad. The King shall, however, notify such action to the council of state, whose members have the obligation to make dutiful representations against the measures if they think they have reason to do so.

Art. 36. Persons occupying judicial positions, both higher and lower, and all officials or employees other than those mentioned in the preceding article, may not be removed from their posts by the King, except after enquiry and sentence, nor shall they be promoted or transferred to other posts except upon their own application.

Art. 37. The King shall have power to ennoble persons who by fidelity, courage, virtue, learning, and useful services have deserved particularly well of the King and the country. The King may also, as a reward for important and distinguished services, confer upon a noble the rank of baron, or upon a baron the rank of count. The noble rank and the dignities of baron and count hereafter granted shall be borne only by the person ennobled or elevated in rank, and, after his death, in direct line of descent, by the eldest male heir of the oldest branch of his family and, after its extinction, by the nearest male heir of the ancestor in the oldest branch in existence, and so forth. If noble rank should pass by inheritance to a person who has already been ennobled or has received a title by previous inheritance, his own rank shall lapse, unless it is of a higher grade, in which case the ancestor's rank shall go to the nearest branch of the family; if no such branch is in existence, the title shall become extinct. If anyone should forfeit his noble rank, the title shall

go to the person most nearly entitled thereto, in accordance with the rules herein established.

An ordinance regarding the nobility, to be adopted by the King in concert with the knights and nobles, shall prescribe the manner in which knights and nobles may assemble to decide upon matters which they have in common.

Art. 38. The King's messages and proposals to the Riksdag or to the church assembly, public laws, the King's commissions for public offices and other documents and orders issued by the King and specified by him shall, in order to be valid, be signed by the King and bear the counter-signature of the competent minister, whose duty it shall be to see that the action taken is in agreement with the minutes drawn up concerning it. Other decisions by the King shall be issued over the signature of the competent minister, who also may issue direct to proper parties all directions and instructions regarding the execution of orders given. Should the minister find any decision of the King to be in conflict with this instrument of government, he shall make a representation in the council of state concerning it; should the King notwithstanding insist upon promulgating the order, it shall be the minister's right and duty to refuse his counter-signature or signature thereto and, as a consequence, to resign his office, which he shall not resume until the Riksdag has examined and approved his conduct. In the meantime his salary and other emoluments shall continue.

Art. 39. If the King desires to travel abroad, he shall so inform a full meeting of the council of state and ask its opinion, as provided by Article 9. Should the King then decide to make such a journey and carry his decision into execution, he shall not take part in the administration of the country or exercise the royal power so long as he is outside the kingdom, but during his absence the government shall be carried on in the King's name by the heir apparent to the throne, if he has attained the age fixed by Article 41. This prince shall govern as regent with all the royal power and authority, in accordance with this instrument of government; he shall not, however, confer any rank or title of nobility, raise persons to the rank of count or baron, or confer the dignity of knighthood; and likewise all vacant posts of trust shall only be held until further notice by persons appointed by the regent.

If the prince who is heir apparent to the throne is not of age or is prevented by sickness or absence abroad from assuming the government, then under such conditions the prince who is next entitled in the succession, and for whom no similar obstacle exists, shall govern as regent in the King's name, under the above-mentioned conditions.

If there is no prince entitled to govern under these conditions, the council of state shall conduct the government with the same powers as a regent.

Article 91 provides for the measures to be taken in case the King remains out of the kingdom for more than twelve months.

Art. 40. Should the King become too ill to perform his functions, the government of the kingdom shall be carried on as determined in the preceding article.

Art. 41. The King shall attain his majority at the age generally provided by law. Should the King die before the heir apparent has reached this age, the government shall be carried on in conformity with Article 39,

until the Riksdag assembles and the regency established by it has assumed the government; the regent or the council of state shall conform strictly to this instrument of government.

Art. 42. If unfortunately the entire royal family, in which the succession is vested, becomes extinct in the male line, the council of state shall similarly carry on the government, with the powers determined in Article 39, until the Riksdag is able to assemble and choose a new dynasty and the King-elect assumes the government.

In all cases, when the government of the country in accordance with the present and the three preceding articles is being carried on by the council of state, all the members thereof shall be present and vote, unless legitimately prevented.

Art. 43. When the King goes on a military expedition, or visits distant localities of the kingdom, he shall designate at least three members of the council of state, under a president whom he shall specially appoint, either from among the princes of his house or from among the members of the council of state, to conduct such matters of government as the King may prescribe. Matters in which the King himself acts shall be dealt with in accordance with Article 8.

The above provisions regarding the King shall also apply to the regent when the latter is exercising the royal power.

Art. 44. No prince of the royal house, whether crown prince, hereditary prince, or otherwise, may marry unless the King, having taken the opinion of the council of state, has given his consent thereto. Should he do so nevertheless, he shall forfeit all hereditary rights to the crown for himself, his children, and descendants.

Art. 45. Neither the crown prince of Sweden, the hereditary prince, nor the princes of the royal house shall have any appanage or civil office; there may, however, according to ancient custom, be conferred on them titles of duchies and principalities, without any rights over the territory of which they bear the name.

Art. 46. The country shall continue to be divided into counties under the customary county governments. No governor-general shall hereafter be appointed within the kingdom.

Art. 47. The courts of appeal of the kingdom and all other courts shall decide cases in accordance with the laws and statutes; the administrative boards of the kingdom, the county governments, and all other administrations, together with superior or inferior officials, shall perform their duties and functions in accordance with the instructions, regulations and orders already issued or which may hereafter be issued; they shall obey the King's orders and commands and assist one another in the execution of such and in the performance of everything which the service of the kingdom may require of them, being responsible to the King, in accordance with the law, for any omission, negligence or illegal action.

Art. 48. The King's court shall be under his own direction; he may make such arrangements as he thinks appropriate. He may, at will, appoint to or dismiss from all posts at his court.

Art. 49. (1) The Riksdag represents the Swedish people. The rights and obligations now vested by laws in force in the estates of the kingdom shall hereafter be vested in the Riksdag. It shall be divided into two chambers, the members of which shall be elected in the manner pre-

scribed by the Riksdag Law specially enacted by the King and Riksdag jointly. The chambers shall have equal competence and authority in all matters; the Riksdag shall, by virtue of this instrument of government, assemble in ordinary session on January tenth of each year, or, if that day is a holiday, on the following day; the King shall, however, have power to summon an extraordinary session of the Riksdag in the intervals between its regular sessions.

An extraordinary session of the Riksdag shall only consider the matters which occasioned its being summoned or other matters submitted to it by the King, and questions which are inseparably connected with such matters.

(2) If, having regard to the particular importance of some measure or the nature thereof, it should be deemed necessary that, prior to its enactment, the opinion of the people should be ascertained, the King and Riksdag may, by a law enacted jointly, determine that a referendum shall be held. This law shall determine the question or questions to be answered by the referendum, together with the date and manner of holding the same. The right to take part in the voting shall be vested in those who are entitled to vote for the lower chamber of the Riksdag. After the referendum the measure shall be dealt with in accordance with the instrument of government.

Art. 50. The Riksdag shall meet in the capital of the kingdom, except when hostile invasion, pestilence, or other equally grave event makes it impossible or dangerous to the liberty and security of the Riksdag. In such a case it devolves on the King, after conferring with the persons elected by the Riksdag as commissioners of the Riksbank and of the office of the national debt, to appoint and announce another place of meeting.

Art. 51. When the Riksdag is convened by the King, the regent, or the council of state, the time for its meeting shall be fixed for not earlier than the first day after the summons is published in the public newspapers and not more than twenty days after said date.

Art. 52. Each chamber of the Riksdag shall appoint its own speaker as well as a first and second deputy speaker, according to the procedure laid down in the Riksdag Law.

Art. 53. When in ordinary session the Riksdag shall appoint the following committees for the preparation of business: a committee on foreign affairs, a committee on the Constitution, a committee on appropriations, a committee on ways and means, a bank committee, two committees on laws, and an agricultural committee, the composition and the duties of which shall be determined by the Riksdag Law.

At an extraordinary session of the Riksdag no more committees shall be appointed than are necessary for the preparation of the measures to be considered.

Art. 54. The members of the committee on foreign affairs mentioned in the preceding article shall also be members of an advisory committee to confer with the King concerning the relations of the kingdom with foreign powers. Conference with this advisory committee must take place before all matters of major importance relating to foreign affairs are decided. All relevant documents and information relating to business on the agenda shall be communicated. The decision of the King relative to the subject-matter of a conference with the committee shall be communicated to its members at their next meeting at latest.

At the beginning of each session of the Riksdag, and afterwards as often as circumstances may require, the minister for foreign affairs shall present to the committee a statement of the general state of foreign affairs which may be of importance to the kingdom.

The members of the committee shall observe the utmost caution with regard to communicating to others information concerning what occurs at meetings of the committee. In case the King, or whoever may be dealing with the matter in his absence, deems it necessary that absolute secrecy be observed, the members shall be bound thereto. Each member shall, on the first occasion of his attending a meeting of the committee, give an assurance that he will observe secrecy.

Art. 55. Neither the Riksdag, the chambers, nor any of the Riksdag's committees may deliberate or decide upon any matter in the presence of the King.

Art. 56. The Riksdag Law shall determine the order of proceeding with reference to propositions of the King and questions raised by members in the chambers.

Art. 57. The ancient right of the Swedish people to tax themselves shall be exercised by the Riksdag alone.

The manner in which separate communities shall tax themselves for their own needs shall be determined by local laws to be enacted by the King and the Riksdag jointly.

Art. 58. At each ordinary session of the Riksdag, the King shall cause to be presented to it a statement of the financial condition of the State in all its branches, both income and expenses, assets and liabilities. Should the country receive any revenue because of treaties with foreign powers, it shall be accounted for in the same manner.

Art. 59. In connection with the statement of the condition and requirements of the administration, the King shall cause to be presented to the Riksdag a proposal relative to the manner of providing by taxation grants for the needs of the State in excess of its ordinary revenues.

Art. 60. The customs and excise taxes, postal charges, stamp taxes, taxes on domestic distillation, and all such other taxes as each Riksdag may vote shall be reckoned as taxation grants. No general tax of whatever name or character may be increased without the consent of the Riksdag, the duties on imported and exported grain alone excepted; nor shall the King lease the revenues of the State, or establish any monopoly for the benefit of himself and the crown or of private individuals and corporations, otherwise than through law, enacted by the King and the Riksdag jointly, in the order provided by Article 87.

Art. 61. All taxes voted by the Riksdag under the headings mentioned in the preceding article shall be paid up to the beginning of the financial year, for which the new grants shall be passed by the Riksdag.

Art. 62. It devolves upon the Riksdag, after consideration of the requirements of the administration, to vote supplies to meet such needs, and also to prescribe the special purposes for which the separate items of appropriation may be used, and to grant these items under definite budgetary headings.

Art. 63. (1) The Riksdag, at each regular session, shall, on a proposal from the King, in the order applicable to appropriations in general, make emergency appropriations for the armed forces, containing the additional appropriations necessary to maintain the peace and independence of the

realm in war or danger of war. The Riksdag may make the condition that these appropriations may not be used before a session of the Riksdag has been called. When the Riksdag is not assembled or within ten days from its meeting, the King may, after conference with the advisory committee on foreign affairs, by royal decree decide on an advance budget, containing emergency appropriations made by the Riksdag. The advance budget remains in force for thirty days after the opening of the Riksdag when the Riksdag does not otherwise decide.

(2) The Riksdag may in the order provided for in paragraph (1) pass a general emergency budget containing the appropriations which may be necessary in an economic crisis or another emergency; and the Riksdag may at the same time provide for the order by which the King may make use of the appropriations included in such an emergency budget.

Art. 64. The regular public funds and revenues, as well as the supplies voted by the Riksdag as extraordinary advances or appropriations in the manner above mentioned, shall be at the disposal of the King for application to meet the needs recognized by the Riksdag in accordance with the budget.

Art. 65. Such funds may not be applied to other purposes than those specified; the members of the council of state shall be responsible if they permit any violation of this rule without entering their protests in the minutes of the council and calling attention to what the Riksdag has prescribed in the matter.

Art. 66. The office of the national debt shall remain under the direction, control, and administration of the Riksdag; and, as the Riksdag is responsible for the public debt which that office administers, it shall, after the condition and needs of that office have been duly examined, provide by special appropriation the funds which are found to be indispensable for the payment of the interest and capital of this debt, in order that the credit of the country may be maintained and preserved.

Art. 67. The delegate of the King in the office of the national debt shall not attend the meetings of the commissioners of that office except when they desire to consult with him.

Art. 68. The funds belonging to or appropriated for the office of the national debt may not, under any pretext or condition, be withdrawn or applied to other purposes than those specified by the Riksdag. All orders in conflict with this provision shall be void.

Art. 69. When the proposals of the competent committee with reference to the establishment of the budget, the entire amount necessary thereafter by way of appropriation, the expenses and revenues of the office of the public debt, or the principles of its direction and administration come before the Riksdag for deliberation, the provisions of the Riksdag Law respecting the discussion of proposals submitted by the committee shall apply. Should the chambers reach different conclusions which cannot be brought into agreement, each chamber shall vote separately upon the resolutions they have adopted; the view which receives the majority of the votes of the two chambers when counted together shall be considered the decision of the Riksdag.

Art. 70. When the two chambers disagree with regard to regulations for the Riksbank, as to its receipts and expenses, or as to relieving the commissioners of the bank of their responsibility, each chamber shall vote separately as provided in the preceding article.

Art. 71. The same procedure shall also be followed when the chambers do not agree upon the principles of an appropriation or upon the manner of its application or repartition.

Art. 72. The Riksbank shall remain under the guarantee of the Riksdag, and shall be administered by the commissioners appointed for that purpose, in accordance with a law enacted by the King and the Riksdag jointly.

The Riksbank commissioners shall be seven in number, of whom the King shall appoint one for periods of three years and also a deputy; the other six commissioners and three deputies shall be chosen by the Riksdag for the term and in the manner prescribed by the Riksdag Law. The regular member appointed by the King shall preside over the commissioners, but shall hold no other position in the administration of the bank. Any commissioner to whom the Riksdag refuses relief from responsibility shall retire from his position. The appointment by the King of a commissioner or deputy may be revoked when the King deems that course advisable.

The commissioners shall elect one of their number to be governor of the Riksbank and, also from or outside their number, a substitute to take the governor's place with full power and responsibility in the event of his being precluded from attendance.

The Riksbank alone shall have the right to issue bank notes which may circulate as money in the kingdom. These notes shall be redeemed by the bank, upon demand, in gold at their face value; with the proviso that when, by reason of war, the danger of war, or a severe money crisis it is considered absolutely necessary to suspend such redemption, the King and the Riksdag jointly or, if the Riksdag is not sitting, the King at the initiative of the commissioners of the Riksbank and after consultation with the commissioners of the national debt office, shall permit such suspension for a certain time. Such permission when given by the King between sessions of the Riksdag, if not confirmed by the Riksdag within twenty days from the beginning of its next session, shall after the lapse of the said period cease to have effect.

Art. 73. No fresh taxation, levy of troops, money, or goods shall hereafter be ordered, collected, or demanded without the free will and consent of the Riksdag, in the manner provided above.

Art. 74. From the day when, by decision of the King in council of state after summoning the Riksdag to assemble, the forces of the kingdom or part thereof are placed upon a war footing, either for the preservation of the neutrality of the kingdom when, in a war between foreign powers, such neutrality is threatened or violated by any of the belligerents or to ward off an apprehended or actual attack, until the return to a peace footing, the King shall have power, in the forms and manner and under the conditions prescribed by special law to be enacted by the King and the Riksdag jointly, and with the obligation that the State shall indemnify, to make requisitions upon local authorities or private individuals for such necessities and services as may be available locally and are required to meet such indispensable needs of the army as cannot be otherwise met with sufficient expedition.

Art. 75. The annual table of market rates shall be prepared by persons chosen in the manner specially provided by the Riksdag; such table shall be followed until its modification is sought and obtained in the regular manner.

Art. 76. The King cannot, without the consent of the Riksdag, contract loans at home or abroad or burden the kingdom with fresh debts.

Art. 77. The King may not, without the consent of the Riksdag, alienate from the crown by sale, mortgage, grant, or otherwise royal demesnes and farms with the houses and appurtenances thereof, royal forests, parks and preserves, the royal grazing meadows, and the salmon or other fisheries belonging to the crown, or other crown property. Such property shall be administered in accordance with principles established by the Riksdag; but persons and communities who, according to the law hitherto in force, are now in possession and enjoyment of such crown property may retain their legal rights therein. Cultivated or cultivable land in the royal forests may be sold to private individuals subject to taxes in accordance with the laws now in force or hereafter to be enacted.

Art. 78. No part of the kingdom may be severed therefrom by sale, mortgage, grant or otherwise.

Art. 79. (1) No change shall be made in the arms or flag of the kingdom without the consent of the Riksdag.

(2) Nor shall any change be made in the standard of the money of the kingdom, either by way of increase or decrease, without the consent of the Riksdag; the King's right to coin money shall, however, remain undisturbed.

Art. 80. The cavalry and infantry and the naval forces shall continue under the system of equipment duty and repartition based on the contracts and military tenure arrangements made with the rural districts and towns; this system shall not be altered in its fundamental principles until the King and the Riksdag jointly agree upon the necessity of some change. No new or increased conscription can be imposed except by common decision of the King and the Riksdag.

Should a special law abolish the military tenure system and establish some other principle for organization of the military and naval forces, no change shall be made in such law except by agreement between the King and the Riksdag.

Art. 81. This instrument of government and the other constitutional laws of the kingdom cannot be altered or replaced except by decision of the King and two ordinary sessions of the Riksdag.

When the Riksdag announces its decision, with reference to a constitutional law, to the King, the latter shall, if the decision includes consent to a proposal made by him, cause such constitutional amendment to be publicly proclaimed before the Riksdag adjourns; and the King's decision on the subject shall be communicated to the Riksdag by means of an open letter which shall be read in each chamber simultaneously by a member of the council of state appointed by the King for that purpose. If the Riksdag adopts a proposal relating to a constitutional law which emanates from its own midst, the King shall consult the entire council of state on the matter and, if he concurs in the proposal, shall cause that fact to be notified by proclamation and open letter in the time and manner above stated. If the King does not give his consent he shall, before the Riksdag adjourns, notify to it in writing his reasons for not approving the Riksdag's resolution.

Art. 82. Amendments to the constitutional laws adopted by the Riksdag and approved by the King, or proposed by the King and adopted by

the Riksdag, in the prescribed manner, shall have force as constitutional laws after the reading in the Riksdag of the open letter mentioned in the preceding article.

Art. 83. No interpretation of the constitutional laws to hold good for the future shall be valid unless adopted in the manner provided for amending such laws.

Art. 84. The constitutional laws shall be applied literally in each particular case.

Art. 85. The following shall be considered constitutional laws; the present instrument of government, the Riksdag Law, the Succession Law, and the law relating to the freedom of the press, which shall be adopted by the King and the Riksdag jointly in accordance with the principles laid down in the present instrument of government.

Art. 86. By freedom of the press is understood the right of every Swede to publish his writings without any previous interference on the part of public authorities; that of only being prosecuted afterwards before a regular court on account of the contents of his publication, and that of not being punished unless such contents are in conflict with a law enacted to preserve public peace without restricting public enlightenment. Public documents may be published without restriction, unless otherwise provided by the law on the freedom of the press.

Art. 87. (1) The Riksdag shall have power, in concert with the King, to enact general civil and criminal laws, and criminal laws for the armed forces, and to amend or repeal any such laws previously enacted. Neither the King without the approval of the Riksdag, nor the Riksdag without the consent of the King, shall have power to make new laws or to repeal existing laws. Motions to that effect may originate in the chambers and, after the competent committee has been consulted, a decision shall be given by the Riksdag. If the Riksdag decides, on its own initiative, to adopt a new law or to repeal or amend an existing law, its proposal shall be submitted to the King, who shall consult the council of state and the law council regarding it and, after having reached his decision, shall inform the Riksdag of his consent to its request or of his reasons for refusing the same. Should the King not be able to make or announce his decision before the adjournment of the Riksdag, he shall be at liberty, before the opening of the next session, to approve the measure unaltered and cause it to be published. If this does not take place, the proposal shall be regarded as rejected, and the King shall inform the Riksdag at its next session of the reasons which prevented the adoption of the measure. If the King considers it appropriate to submit a bill to the Riksdag, he shall obtain the opinions of the council of state and the law council regarding the matter, and shall communicate his proposal, together with such opinions, to the Riksdag; the latter shall then proceed with the bill according to the Riksdag Law.

(2) The Riksdag shall likewise have power, in concert with the King, to enact, amend, or repeal ecclesiastical laws, but the consent of a general church assembly shall also be necessary. The views of the council of state and the law council regarding such laws shall be obtained, as in paragraph (1), and these, together with the King's proposal, if such is made, shall be communicated to the Riksdag. If the proposal in question has not been promulgated as a law before the beginning of the session next after that in which the proposal was presented or adopted, it shall lapse,

and the King shall inform the Riksdag of the reasons which prevented the acceptance of the proposal.

Art. 88. The interpretation of civil, criminal, and church laws shall be dealt with in the same manner as the enactment of such laws. The interpretations which the King gives through the Supreme Court, during the recess of the Riksdag, in answer to questions regarding the true meaning of the law, may be overruled by the Riksdag at its next session; or, if the interpretation relates to a church law, it may be overruled by the first general church assembly meeting after its publication. The interpretations which have thus been overruled shall no longer be valid and shall not be observed or invoked by the courts.

* Art. 89. Motions regarding the amendment, interpretation, or repeal of statutes and decrees relating to the general economy of the kingdom, new statutes of this character, and the principles for general institutions of all kinds, may be introduced in the chambers of the Riksdag. In such matters, however, the Riksdag has no power to make any other resolution or do more than submit its representations and wishes to the King; the latter, after consulting the council of state, shall take such action as he considers appropriate in the interests of the kingdom. If the King wishes to entrust to the Riksdag the solution with himself jointly of any matter relating to the general administration of the country, the procedure shall be the same as that prescribed in Article 87, paragraph (1), regarding motions relating to laws.

Art. 90. Questions relating to the appointment and removal of officials, the decisions, resolutions, and judgments of the executive or judicial authorities, the conduct of private citizens and corporations, or the execution of any law, decree, or regulation, shall in no case or manner be subject to consideration or investigation by the Riksdag, its chambers, or committees, except as literally prescribed by the fundamental laws.

Art. 91. When the King, in the case referred to in Article 39, having set forth on a journey, remains out of the kingdom for more than twelve months, the regent, or the council of state, if the latter is administering the government, shall summon the Riksdag by public proclamation, such summons to be published in the public newspapers within fifteen days after the expiration of the said period. If the King, duly notified of this action, does not return to the kingdom, the Riksdag shall take such action as it thinks most proper regarding the government of the country.

Art. 92. The same procedure shall be followed if illness of the King is of such a nature that he is unable to perform the duties of his office for more than twelve months.

Art. 93. Should the King die when the successor to the throne is still under age, the regent or the council of state, if charged with the government, shall summon the Riksdag, such summons to be published in the public newspapers within fifteen days from the death of the King. The Riksdag shall have power, without regard to anything in the deceased King's will regarding the administration of the country, to appoint one, three, or five persons who may exercise the government in the King's name, in accordance with this instrument of government, until he attains his majority.

Art. 94. Should it unfortunately occur that the royal dynasty in which is vested the right of succession to the throne becomes extinct in the male

line, the council of state shall, within the period after the last King's death which is fixed by the preceding article, summon the Riksdag, which shall choose a new royal house, this instrument of government being maintained.

Art. 95. If, contrary to expectation, the regent or the council of state should fail to summon the Riksdag immediately in the cases mentioned in the four preceding articles, it shall be the absolute duty of the courts of appeal of the kingdom publicly to proclaim such fact, in order that the Riksdag may assemble to observe and protect its own rights and those of the country. In such a case the Riksdag shall assemble on the twentieth day after that on which the regent or the council of state should at the latest have issued the summons.

Art. 96. The Riksdag shall at each ordinary session appoint two persons of known legal ability and conspicuous integrity, the one as procurator for judicial affairs, and the other as procurator for military affairs, to supervise the observance of the laws and statutes in the capacity of representatives of the Riksdag, according to instructions issued by the Riksdag. The procurator for military affairs shall supervise matters arising out of cases which by law, enacted as provided in Article 87, paragraph (1), have been described as military cases, together with the officials and staff thereof remunerated from grants for the defense forces, and the procurator for judicial affairs shall supervise other matters appertaining to the civil courts, their officials, and staff; and in accordance with the division of duties mentioned above, these procurators shall institute proceedings before the competent courts against those who, in the execution of their official duties, have through partiality, respect of persons, or other cause committed any unlawful act or neglected to perform their official duties properly. The procurators shall be subject in all respects to the same responsibility and obligation as are prescribed for public prosecutors by general laws and the laws of procedure.

Art. 97. The procurators for judicial and military affairs shall be elected by the Riksdag for the time and in the manner provided by the Riksdag Law; a substitute for each of them also being appointed, who shall have the same competence as the procurator and exercise his functions in the cases provided for by his letter of instruction. If the procurator or his substitute no longer enjoys the confidence of the Riksdag, the Riksdag may, on proposal by the committee scrutinizing his conduct in office, discharge him before the end of the time for which he has been elected.

Art. 98. In the event of the procurator for judicial affairs or the procurator for military affairs resigning the trust confided to him or of a procurator's office becoming vacant otherwise, the deputy shall immediately take over the office; and election of a new procurator shall be undertaken by the Rikstag if in regular session or, if not, at the next regular session of the Riksdag. In the event of a deputy resigning the trust confided to him or being installed in the office of procurator, or of his office otherwise becoming vacant, a new election of a deputy shall be undertaken. Should any of these circumstances arise during the recess of the Riksdag, the powers of that body with regard to them shall be exercised by those commissioners of the Riksbank and the office of the national debt who are elected by the Riksdag.

Art. 99. The procurator for judicial affairs and the procurator for military affairs may, whenever they consider it necessary in the exercise

of their duties, attend the deliberations and conclusions of the Supreme Court, the Supreme Administrative Court, the secretariat of the Supreme Court, the courts of appeal, the administrative boards or the institutions established in their place, and all the lower courts, but shall have no right to express their views thereat; they shall also have access to the minutes and records of all courts, administrative boards, and public offices. The King's officials in general are bound to afford the procurator for judicial affairs and the procurator for military affairs lawful assistance, and all public prosecutors shall aid them in the conduct of cases when requested to do so.

Art. 100. It shall be the duty of the procurator for judicial affairs and the procurator for military affairs each to present to every ordinary session of the Riksdag a report on the administration of his office, in which they shall give account of the administration of justice throughout the kingdom in the spheres defined in Article 96 as the scope of their duties, call attention to defects in the laws and statutes, and make suggestions for their improvement.

Art. 101. Should it happen, contrary to expectation, that either the entire Supreme Court, or one or more of its members, is found to have rendered, by reason of self-interest, iniquity, or negligence, such an unrighteous judgment, in conflict with clear law and evidence of facts duly established, that it causes or might have caused someone loss of life, personal liberty, honor or property; or if the Supreme Administrative Court or one or more of its members, is found to have been guilty of such conduct in the hearing of appeal actions, it shall be the duty of the procurator for judicial affairs, or, in military cases as described in Article 96, the procurator for military affairs, as it shall be within the power of the King's attorney-general, to institute proceedings against the offender before the national court hereinafter provided and to call him to responsibility in accordance with the law of the land.

Art. 102. This court, to be known as the court of impeachment, shall in such cases be composed of the president of the Svea court of appeal, who shall preside, the presidents of all the administrative boards of the kingdom, and, in actions against the Supreme Court, the four senior justices of the Supreme Administrative Court, or, if the Supreme Administrative Court is arraigned, the four senior lords justices of the Supreme Court, and in both cases, the commander-in-chief of the troops on duty in the capital, the highest officer present of the units of the fleet stationed at the capital, the two senior members of the Svea court of appeal, and the senior member of each of the administrative boards of the kingdom. When the attorney-general, the procurator for judicial affairs, or the procurator for military affairs considers himself justified in accusing the Supreme Court as a whole, or individual members thereof, before the court of impeachment, or the attorney-general or the procurator for judicial affairs considers himself justified in bringing such an action against the Supreme Administrative Court as a whole or individual members thereof, he shall request the president of the Svea court of appeal, as president of the court of impeachment, to issue a summons in legal form to the person or persons to be prosecuted. The president of the court of appeal shall then make arrangements for the meeting of the court of impeachment in order that the summons may be issued and the matter dealt with further according to law. Should he, contrary to expectation,

fail to do this, or should any of the above-mentioned officials refuse to participate in the court of impeachment, they shall be legally responsible for such intentional neglect of their official duty. If one or more members of the court of impeachment has a lawful excuse, or if lawful exception can be taken against any of them, a quorum shall nevertheless exist if the court consists of twelve persons. If the president of the court of appeal is prevented from acting by a lawful excuse or challenge, the senior of the presidents in service shall take his place. After enquiries have been terminated and the sentence pronounced in accordance with law, the court shall pronounce judgment in public session. No one shall have power to modify this judgment; the King, however, may grant pardon, which shall not extend to a reinstatement of the convicted person in the service of the country.

Art. 103. Every fourth year, the Riksdag shall in ordinary session, in the manner provided by the Riksdag Law, appoint a commission whose duty it shall be to decide whether all the members of the Supreme Court and of the Supreme Administrative Court deserve to be retained in their important vocation, or if any of them ought to be deprived of their offices, without their having demonstrably committed the offense or crimes referred to in the preceding article. Should this commission, after voting in the manner prescribed by the Riksdag Law, decide that one or more of the members of the Supreme Court or of the Supreme Administrative Court shall be considered to have forfeited the confidence of the Riksdag, the person or persons in question shall be graciously discharged from their offices by the King, to whom the Riksdag shall report its decision. The King shall, however, grant to each such person an annual pension amounting to one-half of his salary.

Art. 104. The Riksdag shall not enter into any special examination of decisions of the Supreme Court or of the Supreme Administrative Court, nor shall any general consideration of such matter by the commission take place.

Art. 105. It is incumbent on the committee on the Constitution of an ordinary Riksdag to ask for the minutes kept by the council of state. The special minutes referred to in Article 9 may, however, only be demanded with reference to a particular matter specified by the committee. In such a case the King shall consider whether, in the light of the safety of the kingdom or of other particularly important reasons determined by relations with foreign powers, he finds any obstacle to the delivery of the minutes to the committee. They shall not be refused without the committee for foreign affairs having had an opportunity to express its views on the subject.

Minutes relating to matters of military command may be demanded only with reference to matters already generally known and specified by the committee.

Art. 106. If the committee discovers from these minutes that any member of the council of state, or any person appointed to submit matters to the King for a special occasion, has manifestly acted in violation of the national Constitution or general laws, or has supported such violation or omitted to protest against it, or has occasioned or encouraged it by wilful concealment of any information, or that the councilor of state submitting a matter to the King has failed to refuse his countersignature or signature to a royal decision in the cases contemplated in Article 38 of this instrument of government, the committee on the Constitution shall cause an

action to be brought against such person by the procurator for judicial affairs before the court of impeachment, and shall proceed in accordance with the provisions of Articles 101 and 102 regarding the arraignment of the Supreme Administrative Court. When members of the council of state are found guilty in the manner provided above, the court of impeachment shall sentence them in accordance with the general law and with the special statute determining their responsibility to be enacted by the King and the Riksdag.

Art. 107. Should the committee on the Constitution observe that the members of the council of state as a whole or any of them, in their advice upon public measures, have not had due regard to the true welfare of the State, or that any head of a department has failed to perform his duties with impartiality, zeal, ability, and energy, it shall bring the matter to the knowledge of the Riksdag, which, if it thinks the welfare of the country so requires, may inform the King in writing of its desire that he shall remove from the council of state and from office the person or persons whose conduct was thus brought to the committee's notice.

Motions of this character may be brought in the chambers of the Riksdag and may be presented to the chambers by committees other than the committee on the Constitution, but no decision shall be reached by the Riksdag until the latter committee has been heard on the subject. In the consideration of such matters by the Riksdag, decisions of the King with reference to the rights and interests of private individuals or corporations may not even be mentioned, much less made the subject of any investigation by the Riksdag.

Everything that the Riksdag, after investigation, has approved or left unnoticed shall be considered as relieved from responsibility as regards the points examined, and no fresh investigation of the same matter shall be undertaken by another Riksdag for the purpose of fixing liability; nevertheless, notwithstanding the general supervision of the expenditure of public funds exercised by the committee or the auditors of the Riksdag, it shall be incumbent on the competent officials to effect such special audits as pertain to their official duties.

Art. 108. Every fourth year the Riksdag in ordinary session shall, in the manner prescribed by the Riksdag Law, appoint six persons of known intelligence and erudition who, together with the procurator for judicial affairs as president, shall watch over the liberty of the press. Of these commissioners, two in addition to the procurator for judicial affairs shall be learned in the law. The commission on freedom of the press may make no decisions except when three commissioners in addition to the procurator for judicial affairs are present.

Art. 109. The ordinary session of the Riksdag cannot be adjourned, except at its own request, until it has been assembled for four months, unless the King in accordance with the provisions of the Riksdag Law orders a new election of one or both chambers, in which case the Riksdag shall reassemble within three months after dissolution upon the date set by the King, and, preserving its character as an ordinary session, shall not again be adjourned by the King until after four months from the date of its last assembling.

The King may terminate an extraordinary session of the Riksdag whenever he thinks best, and it shall always be terminated before the time fixed for the meeting of the ordinary session.

If, contrary to expectation, the Riksdag has not passed the budget or granted new supplies before the beginning of the new financial year, the former budget and grants shall remain in force until the new budget and grants are passed.

Art. 110. No member of the Riksdag shall be prosecuted or deprived of his liberty on account of his actions or utterances in that capacity unless the chamber to which he belongs has authorized such action by an explicit resolution, adopted by at least a five-sixths' vote. No member of the Riksdag shall be banished from the place where it meets. Should any private individual or body, military or civil, or any group of people of whatever name, either spontaneously or under orders, attempt to do violence to the Riksdag, its chambers or committees, or any one of its members, or to disturb the freedom of its discussions and decisions, such action whenever not punishable as treason shall be considered as rebellion; all provisions regarding attempt, preparation or conspiracy to rebellion and neglect to reveal such crimes being applicable in this case also. It shall appertain to the Riksdag to cause such crimes to be prosecuted in accordance with law.

If a member of the Riksdag, during a session or when proceeding to or from a session, such errand being known, is molested by word or action, the provisions of the general law regarding assaults upon or insults to the King's servants on duty or on the occasion of their duties shall apply. The same law shall apply to assaults upon or insults to the commissioners, auditors, procurator for judicial affairs, procurator for military affairs, the secretaries or employees of either chamber, or any of their committees, during or on the occasion of the performance of such duties.

Art. 111. If a member of the Riksdag is accused of a serious misdeed he may not, unless he was apprehended *in flagrante delicto*, be committed to prison until the judge, after investigation, considers such action justifiable; nevertheless, if he does not appear on the summons of the court, the provisions of the general laws relating to such cases shall apply. No member of the Riksdag shall be deprived of his liberty except in the cases mentioned in this and the preceding article.

The commissioners of the Riksbank and of the office of the public debt and the auditors of the Riksdag may not, in or on the occasion of their duties, receive orders save from the Riksdag, or in accordance with its instructions, nor may they be called to account or responsibility except by decision of the Riksdag.

Art. 112. No official or employee may make an improper use of his authority in the election of members to the Riksdag. Should he do so he shall be deprived of his post.

Art. 113. Assessors whose duty it is, on behalf of the Riksdag, to apply the provisions of the appropriation law cannot be held liable on account of the charges or assessments they make.

Art. 114. The ancient privileges, advantages, rights, and liberties of the estates of the kingdom shall remain in force, except where they are indissolubly connected with the right of representation formerly appertaining to the estates, and have consequently ceased to exist with the same. They shall not be altered or abolished except by joint decision of the King and the Riksdag, and with the consent of the nobility if their privileges, advantages, rights, and liberties are in question, or of a general church assembly if those of the clergy are concerned.

In virtue whereof we have to these presents put our names and seals to attest, confirm and endorse the same, in Stockholm on the sixth day of June, in the year 1809 after our Lord's birth.

On behalf of the nobility:

(L.S.) M. ANKARSVARD

On behalf of the clergy:

(L.S.) JAC. AX. LINDBLOM

On behalf of the burghers:

(L.S.) H. N. SCHWAN

On behalf of the peasantry:

(L.S.) LARS OLSSON

Everything as herein provided we not only accept for ourselves as the irrevocable fundamental law, but we direct and graciously command all who are united in loyalty, fealty, and obedience to us, our successors and the kingdom, to acknowledge, observe, follow, and obey this instrument of government. In witness whereof we have with our own hand signed and confirmed it, and duly affixed our royal seal below, in Stockholm our city of residence, on the sixth day of June in the year 1809 after the birth of our Lord and Savior Jesus Christ.

(L.S.) CARL

The Organic Law of the Riksdag¹

June 22, 1866

The Organic Law of 1866 has been extensively modified by subsequent regulations including those of 1909, and is referred to in some Swedish publications as having been "repealed".² According to the Law of 1866 every judicial district in the *country* was to elect one representative; and if the district had more than 40,000 inhabitants, it was divided into two constituencies. As to the *towns* the largest (with more than 10,000 inhabitants) had a right to elect one representative for each full 10,000 of population. The smaller towns were grouped together into constituencies of at least 6,000 and at most 12,000 inhabitants.

This had the result originally of giving one representative for about every 27,000 persons in the country, while the towns were given one for about every 10,000. The purpose was to give certain additional protection to the interests of the towns owing to the fact that the great majority of the population at that time lived in the country.

The towns subsequently grew more rapidly than the country but in order to overcome that and preserve in principle the original relationship, a majority of the Riksdag in 1894 carried into effect new regulations according to which the number of members was fixed at 150 for the country and 80 for the towns.

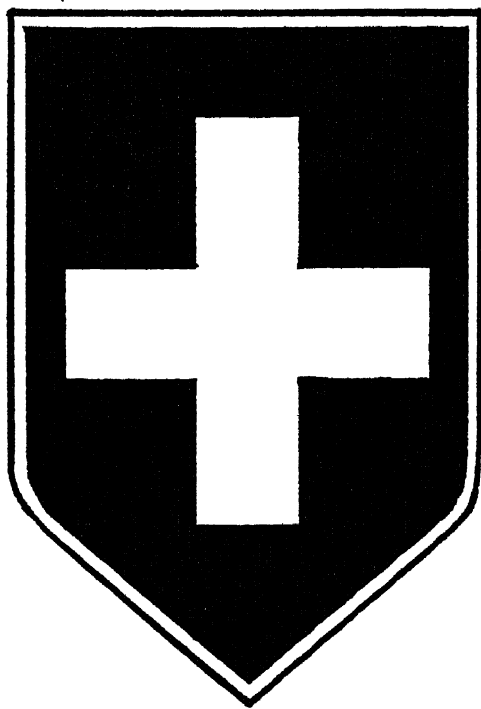
Subsequently modifications have been made from the old limit of a judicial district so as to embrace as a rule a whole county or county council area.

¹ Text not printed.

² See Handbook of Sweden, "Sveriges land och folk," p. 202, Government Printing Office, Stockholm.

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SWITZERLAND

SUMMARY

INTERNATIONAL STATUS

Switzerland is not, as of the time of our going to press, a member of the United Nations. It was neutral during World War II.

It was a member of the League of Nations and signed the Paris Pact of 1928. It was a party to the Statute of the Permanent Court of International Justice and accepted the optional clause regarding compulsory jurisdiction. On July 28, 1948, it was admitted as a party to the Statute of the International Court of Justice of 1945 and it accepted compulsory jurisdiction of the Court under Article 36 of its Statute.¹ It is a

¹ See Yearbook of the Court 1947-48, p. 39; also Documents & State Papers, U. S. Dept. of State, June 1948, Vol. 1, No. 3, p. 192.

member of the Postal Union and numerous other international organizations.¹

The league of the three cantons of Uri, Schwyz, and Unterwalden, created in 1291 for defense against Austria, was the origin of the Swiss State. During the century that followed, they were joined by five more cantons, thus becoming a league of eight. During the fourteenth and fifteenth centuries, as a result of judicial and social legislation in the Priest's Charter of 1370 and the military agreements of the Covenant of Sempach of 1393, the cantons began a great expansion. In 1513 the league was composed of thirteen members and remained as such until the Napoleonic era. Devastating civil wars which occurred during the fifteenth century were settled in 1481 by the Covenant of Stanz.

In 1515, as a result of the Battle of Marignano, the Swiss renounced their policy of military expansion through foreign wars. In the Treaty of Westphalia, 1648, the European powers formally recognized Swiss national independence and neutrality. Swiss neutrality was declared for the first time as a political principle by the Federal Diet with regard to the European wars of 1674. In 1815, the signatories of the Treaty of Vienna declared the neutrality and inviolability of Switzerland to be in the true interest of Europe.

In 1798 the cantons were invaded by the French republican armies and the confederation was replaced by the Helvetic Republic, a unitary, centralized state which was under French control. Revolt broke out, and conditions were unsettled until the intervention of Napoleon in 1801. The Act of Mediation of 1803 again reorganized Switzerland and provided for nineteen cantons.

Under the pact of 1815, after the downfall of Bonaparte, Switzerland was reorganized into twenty-two cantons.

FORM OF NATIONAL GOVERNMENT

Switzerland has a constitution adopted September 12, 1848, which has had various revisions and amendments. It states that the country is a confederation of cantons sovereign in so far as the sovereignty is not limited by the federal Constitution.²

This Constitution was preceded by the federal pact of 1815 which restored the old order with only slight changes, and by the Constitution of 1848 which was much like the present one. The Constitution of 1874 was adopted when it became apparent that, under the 1848 document, the cantons were more advanced socially and politically than the central government, and also because the appearance of a powerful German state on the north and a united Italy at the south made the Swiss feel the need of a stronger central government.

¹ See Table I.

² Const., Art. 1.

SOURCE OF SOVEREIGN POWER

The Constitution states that the "cantons are sovereign."¹

RIGHTS OF THE PEOPLE

There is no one section of the Constitution devoted to a declaration of rights, but guarantees are scattered through the first chapter. Provision is made that all Swiss are equal before the law and that there are no privileges.² Education is free and compulsory.³ Freedom of commerce and industry is guaranteed,⁴ also the inviolable secrecy of letters and telegrams,⁵ the right of settlement in any place in Swiss territory,⁶ liberty of conscience and belief, freedom in form of worship,⁷ freedom of the press,⁸ the right to form associations,⁹ the right to petition,¹⁰ prohibition of extraordinary tribunals,¹¹ and the prohibition of corporal punishment.¹²

LEGISLATIVE DEPARTMENT

Legislative power is vested in the Federal Assembly composed of the National Council and the Council of States. Elections to the National Council are direct and universal and the term is for four years.¹³ The Council of States is composed of forty-four deputies, each canton appointing two.¹⁴ Provision is made that federal laws and decrees be submitted to a referendum when so demanded by 30,000 active citizens or eight cantons.¹⁵

EXECUTIVE DEPARTMENT

Executive power is vested in the Federal Council composed of seven members appointed by the National Council and the Council of States in joint session for a term of four years.¹⁶ The President and Vice-President are selected by the Federal Assembly, from the membership of the Federal Council, for a term of one year. The President may not be re-elected as either President or Vice-President for the ensuing year, and the vice-presidency may not be exercised by the same member for two consecutive years.¹⁷

JUDICIAL DEPARTMENT

Provision is made for a Federal Tribunal for the administration of justice in federal matters.¹⁸ Its members are appointed by the Federal

¹ Const., Art. 3.

⁴ Id., Art. 31.

⁷ Id., Arts. 49, 50.

¹⁰ Id., Art. 57.

¹³ Id., Arts. 72-76.

¹⁶ Id., Arts. 95, 96.

² Id., Art. 4.

⁵ Id., Art. 36.

⁸ Id., Art. 55.

¹¹ Id., Art. 58.

¹⁴ Id., Art. 80.

¹⁷ Id., Art. 98.

³ Id., Art. 27.

⁶ Id., Art. 45.

⁹ Id., Art. 56.

¹² Id., Art. 65.

¹⁵ Id., Art. 89.

¹⁸ Id., Art. 106.

Assembly.¹ Among its duties is that of taking cognizance of complaints respecting the violation of constitutional rights of citizens.²

AREA, POPULATION, LANGUAGE

Switzerland has an area of 15,737 square miles and a population of 4,500,000. The national languages are German, French, Italian, and Romanche. The first three of these are official.³

FEDERAL CONSTITUTION of the SWISS CONFEDERATION

September 12, 1848, as amended and revised⁴

IN the name of Almighty God! The Swiss Confederation, resolved to consolidate the alliance of the confederated members and to maintain and increase the unity, strength, and honor of the Swiss nation, has adopted the following federal Constitution:—

CHAPTER I

GENERAL PROVISIONS

Art. 1. The peoples of the twenty-two sovereign cantons of Switzerland united in the present alliance, namely: Zurich, Berne, Lucerne, Uri, Schwyz, Unterwalden (Upper and Lower), Glaris, Zoug, Fribourg, Soleure, Bâle (city and country), Schaffhausen, Appenzell (the two Rhodes), St. Gall, Grisons, Aargau, Thurgau, Ticino, Vaud, Valais, Neuchatel, and Geneva, form together the Swiss Confederation.

Art. 2. The object of the Confederation is to ensure the independence of the country against the foreigner, to maintain tranquillity and order within its borders, to protect the liberties and rights of the confederates, and to promote their common prosperity.

Art. 3. The cantons are sovereign so far as their sovereignty is not limited by the federal Constitution, and as such they exercise all the rights which are not delegated to the federal power.

Art. 4. All Swiss are equal before the law. In Switzerland there are no subjects or privileges of rank, birth, person, or family.

¹ Const., Art. 108.

² Id., Art. 113.

³ Id., Art. 116.

⁴ Translation of Constitution as amended up to June 20, 1931, is from 131 *British and Foreign State Papers* 713. Subsequent amendments translated from French text in *Nouveau Manuel du Droit Suisse*, Vol. I, pp. 1-58, published by the Federal Chancellery at Zurich, Editions Polygraphiques, 1947 and from *Recueil Officiel des Lois et Ordonnances de la Confédération Suisse, Nouvelle Série*, Tome 63, 1947, p. 1047.

Art. 5. The Confederation guarantees to the cantons their territory, their sovereignty within the limits fixed by Article 3, their constitutions, the liberty and rights of their people, the constitutional rights of the citizens, and the rights and power conferred by the people on the authorities.

Art. 6. The cantons are required to demand from the Confederation its guarantee of their constitutions.

This guarantee shall be accorded, provided that:

(a) The constitutions contain nothing contrary to the provisions of the federal Constitution.

(b) They ensure the exercise of political rights according to republican forms—representative or democratic.

(c) They have been accepted by the people and can be revised when an absolute majority of citizens so demand.

Art. 7. All separate alliances and treaties of a political character between cantons are forbidden.

The cantons, however, have the right to make agreements with one another on matters of legislation, administration, or justice; they must, nevertheless, communicate such agreements to the federal authority, which may prohibit their execution if they contain anything prejudicial to the Confederation or the rights of the other cantons. If this is not the case, the contracting cantons are authorized to demand the co-operation of the federal authorities in the execution of the agreements.

Art. 8. The Confederation has the sole right to declare war and conclude peace, and to make alliances and treaties, particularly customs and commercial treaties, with foreign states.

Art. 9. Exceptionally, the cantons retain the right to conclude treaties with foreign states in respect of matters of public economy and neighborhood and police relations; nevertheless, such treaties must not contain anything prejudicial to the Confederation or the rights of other cantons.

Art. 10. Official intercourse between the cantons and foreign governments or their representatives shall take place through the Federal Council.

In regard to the matters mentioned in the preceding article, however, the cantons may correspond directly with the subordinate authorities and officers of a foreign state.

Art. 11. Military capitulations may not be concluded.

Art. 12.¹ Members of the federal authorities, civil and military officials, and federal representatives or commissioners, as also members of the cantonal governments and legislative assemblies, may not accept from a foreign government any pension, salary, title, gift, or decoration. Contravention of this prohibition involves loss of the mandate or office.

No one who is in possession of such a pension, title, or decoration may be elected or appointed member of a federal authority, civil or military

¹ As amended February 8, 1931. A transitory provision adopted at the same time reads: "Anyone who, before the revised Article 12 became effective, has received in a legal manner a decoration or title, may be elected or appointed a member of a federal authority, civil or military functionary of the Confederation, federal representative or commissioner, member of the government or legislative assembly of a canton if he agrees to renounce, for the term of his mandate or function, usage of his title or decoration. Contravention of this agreement will result in the loss of the mandate or function."

official of the Confederation, federal representative or commissioner, or member of a cantonal government or legislative assembly unless, before exercising the mandate or office, he expressly renounces the enjoyment of his pension or the bearing of his title, or returns his decoration.

The wearing of foreign decorations and the use of titles conferred by foreign governments are forbidden in the Swiss army.

Every officer, non-commissioned officer, or soldier is forbidden to accept such distinctions.

Art. 13. The Confederation has not the right to maintain a standing army.

No canton or half-canton may have more than three hundred permanent troops without the permission of the federal power; the police are not included in this number.

Art. 14. The cantons shall abstain, in the event of differences arising between them, from any act of violence or arming. They shall submit to the decision reached in regard to such differences in the manner prescribed by the Confederation.

Art. 15. In case of sudden danger from without, the government of the canton threatened must invoke the assistance of the confederated states and immediately notify the federal authority, all without prejudice to the measures which the latter will take. The cantons so called upon are bound to give their assistance. The cost shall be borne by the Confederation.

Art. 16. In case of internal troubles, or when danger threatens from another canton, the government of the canton threatened must immediately notify the Federal Council, in order that the latter may take the necessary measures within the limits of its competence (Article 102, Nos. [3], [10] and [11]), or convene the Federal Assembly. In case of urgency, the government, while immediately notifying the Federal Council, is authorized to call for the assistance of the other confederated states, which are bound to render the same.

When the government is not in a position to summon assistance, the competent federal authority may intervene on its own initiative; it is bound to do so when the disturbances endanger the safety of Switzerland.

In cases of intervention, the federal authorities shall ensure the observance of the provisions of Article 5.

The costs shall be borne by the canton by which assistance was invoked or intervention was necessitated, unless the Federal Assembly, in consideration of special circumstances, should otherwise decide.

Art. 17. Every canton is bound to give free passage to troops in the cases mentioned in the two preceding articles. The troops are placed immediately under federal command.

Art. 18. Every male Swiss is liable to perform military service.

Soldiers who lose their lives or suffer permanent injury to their health in the federal service are entitled to assistance from the Confederation, for themselves or their families, if in need.

Every soldier shall receive free of charge his first outfit of arms, equipment, and clothing. The arms shall remain in the possession of the soldier upon conditions to be determined by federal legislation.

The Confederation will prescribe uniform regulations regarding the tax on exemption from military service.

Art. 19. The Federal army consists of:

- (a) The cantonal corps of troops;
- (b) All Swiss who, not being members of these corps, are, nevertheless, liable for military service.

The control of the army and of the war material prescribed by law is vested in the Confederation.

In case of danger, the Confederation has also the right of exclusive and immediate control over men not incorporated in the federal army and of all other military resources of the cantons.

The cantons exercise control over the military forces of their territory, save in so far as this right is limited by the federal Constitution or laws.

Art. 20. Laws as to the organization of the army are enacted by the Confederation. The execution of military laws within the cantons is undertaken by the cantonal authorities within the limits prescribed by federal legislation and under the supervision of the Confederation.

Military instruction in its entirety is vested in the Confederation; the same also applies to arming.

The supply and maintenance of clothing and equipment are within the competence of the cantons, but the cost thereof shall be reimbursed by the Confederation to the cantons in a manner to be prescribed by federal law.

Art. 21. Unless military considerations forbid, each corps shall consist of troops from the same canton.

The composition of such corps, the obligation of maintaining their effectives, and the appointment and promotion of their officers shall rest with the cantons, subject to general regulations which shall be communicated to them by the Confederation.

Art. 22. In return for reasonable compensation, the Confederation has the right to make use of or to acquire drill grounds and buildings used for military purposes, together with their accessories, in the cantons.

The conditions governing compensation shall be regulated by federal legislation.

Art. 23. The Confederation may order the construction at its own expense of public works of utility to Switzerland or a considerable part of the country, or may encourage the same by granting subsidies.

For this purpose it may order expropriation on payment of just compensation. Federal legislation will make further provision in this respect.

The Federal Assembly may prohibit public works which would endanger the military interests of the Confederation.

Art. 23A. The Confederation shall maintain the corn reserves which are necessary for ensuring the provisioning of the country. It may oblige millers to store corn and to acquire reserve stocks in order to facilitate the renewal of supplies.

The Confederation shall encourage the cultivation of corn in the country, it shall facilitate the selection and acquisition of native seed of good quality, and shall grant assistance to producers cultivating corn for their own needs, special consideration being given to mountainous regions. It shall purchase native corn of good quality fit for grinding at a price which allows the cultivation of the same. Millers may be compelled to buy this corn at its market value.

The Confederation shall ensure the maintenance of the national milling industry; it shall likewise safeguard the interests of consumers of flour and bread. It shall supervise, within the limits of its powers, trade in and the prices of corn, bread-flour, and bread. The Confederation shall take the necessary measures for regulating the importation of bread-flour; it may reserve to itself the exclusive right of importing this product. In case of need, the Confederation shall grant the mills facilities to enable them to reduce costs of transport to the interior of the country. It shall take, in favor of mountainous districts, appropriate measures to equalize the prices of flour.

The statistical duty levied on all goods crossing the Swiss frontier shall be increased. The yield from this duty will contribute to cover the expenditure arising from the provisioning of the country with corn.

Art. 24. The Confederation has the right of supreme supervision of the policing of embankments and forests.

It will assist in the control and embanking of mountain streams and the re-forestation of the districts in which they rise. It will decree the measures necessary for ensuring the maintenance of such works and the preservation of the existing forests.

Art. 24A. The utilization of water-power is placed under the supreme control of the Confederation.

Federal legislation will enact the general provisions necessary for safeguarding the public interest and ensuring the rational utilization of water-power, taking into account, as far as possible, the interests of internal navigation.

Subject to such provisions, the cantons shall regulate the utilization of water-power.

Nevertheless, when a watercourse, the utilization of which is sought for the production of hydraulic power, is under the sovereignty of several cantons, and these have failed to come to any agreement as to granting a concession, the Confederation may grant the concession. It shall likewise have power to do so, after hearing the views of the cantons concerned, in respect of watercourses forming the frontier of the country.

Fees and royalties payable in respect of the utilization of water-power are the property of the cantons or of those entitled to them under cantonal law.

Dues and royalties payable in respect of concessions granted by the Confederation shall be determined by the latter after hearing the views of the cantons concerned and having due regard to their legislation. Dues and royalties payable in respect of other concessions shall be fixed by the cantons, within the limitations imposed by federal legislation.

The diversion abroad of energy produced from water-power may not take place without the consent of the Confederation.

Upon the coming into force of the present article, all new water-power concessions shall be subject to future federal legislation.

The Confederation has the right to legislate upon the transmission and distribution of electrical energy.

Art. 24B. Legislation affecting navigation is within the province of the Confederation.

Art. 25. The Confederation has the right to pass laws for the regulation of fishing and hunting, particularly with a view to the preservation

of large game in the mountains and the protection of birds useful to agriculture and sylviculture.

Art. 25A. The bleeding of slaughter animals which have not been previously stunned is expressly forbidden; this provision applies to all methods of slaughter and to all kinds of livestock.

Art. 26. Legislation on the construction and working of railways is within the province of the Confederation.

Art. 27. The Confederation has the right to establish, in addition to the existing federal polytechnic school, a federal university and other institutions for higher education, or to subsidize establishments of this kind.

The cantons shall make provision for elementary education, which must be adequate, and be exclusively under the control of the civil authorities. It is compulsory and, in the public schools, free.

Public schools must be open for the attendance of members of all religious faiths without their conscience or belief having to suffer in any fashion.

The Confederation will take the necessary measures against cantons which fail to fulfill these obligations.

Art. 27A. Subventions shall be granted to the cantons to aid them in carrying out their obligations in respect of elementary education.

Effect will be given to this provision by legislation.

The organization, direction, and supervision of elementary schools remain within the competence of the cantons, subject to the provisions of Article 27 of the federal Constitution.

Art. 28. Customs matters are the concern of the Confederation, which may impose import and export duties.

Art. 29. The collection of the federal customs shall be regulated in accordance with the following principles:

(1) Import taxes:

(a) Materials necessary to the industry and agriculture of the country shall be taxed as lightly as possible.

(b) The same principle shall apply to commodities necessary to life.

(c) Articles of luxury shall be subjected to the heaviest taxes.

Except where circumstances render it impossible, these principles must also be observed in the conclusion of commercial treaties with foreign countries.

(2) Export taxes shall be as moderate as possible.

(3) Legislation on customs will contain suitable provisions for guaranteeing frontier and market trading.

The foregoing provisions do not preclude the Confederation from taking exceptional measures temporarily to meet abnormal circumstances.

Art. 30. Revenue from customs duties belongs to the Confederation.

The indemnities hitherto paid to the cantons in respect of the redemption of customs, road and bridge tolls, local dues, and similar revenues, are abolished.

The Cantons of Uri, Grisons, Ticino, and Valais shall receive exceptionally, on account of their international Alpine highways, a yearly allowance fixed as follows:

Uri	Fr. 160,000
Grisons	400,000
Ticino	400,000
Valais	100,000

Art. 31.¹ The freedom of trade and commerce is guaranteed throughout the Confederation, in so far as it is not limited by the Federal Constitution and laws based on constitutional provisions.

Cantonal regulations concerning the exercise of commercial and industrial occupations, and taxes in connection therewith, remain unaffected. Such regulations may not contain any provisions contravening the principle of freedom of trade and commerce unless permitted by the Federal Constitution. Cantonal monopolies are also excepted.

Art 31A. The Confederation takes the necessary measures within its constitutional authority for the welfare of the people and the economic security of the citizens.

With due regard for the general interest of the Swiss economy as a whole, the Confederation may enact regulations concerning the exercise of trades and industries and may take measures for the development of certain branches or professions. The Confederation is bound (excluding the exceptions contained in paragraph 3 of this Article) to the observance of the principle of freedom of trade and commerce.

If justified in the national interest, the Confederation is authorized to enact regulations in the following matters which may, if necessary, deviate from the principle of freedom of trade and commerce:

(a) Measures for the maintenance of important branches and professions whose existence is jeopardized; as well as measures for the professional furtherance of self-employed persons in these branches or professions.

(b) Measures for the maintenance of a healthy and productive agriculture; as well as measures for the protection of land ownership by farmers.

(c) Measures for the protection of distressed areas.

(d) Measures against economically and socially dangerous effects of cartels and similar groups.

(e) Measures to insure preparedness in time of war.

Measures in accordance with (a) and (b) may be taken only if the branches or professions to be protected have exhausted all ordinary means of self-help.

The federal legislation adopted in accordance with paragraph 3, (a) and (b) must guarantee the development of economic organizations based on mutual assistance.

Art. 31B.¹ The cantons are authorized to enact legislation with regard to the requirements for the management of hotels and restaurants. The cantons may limit the number of such enterprises if they exceed the public need and if the existence of the industry is threatened by excessive competition. These regulations must take into account the relative importance of the different types of hostelries for the public welfare.

The Confederation, within its own legislative powers, may furthermore authorize the cantons to issue regulations in fields which do not require general regulation by the Confederation itself and which actually do not fall under the jurisdiction of the cantons.

Art. 31C.¹ The Confederation is authorized to regulate banks.

These regulations must take into account the special function and position of the cantonal banks.

Art. 31D¹. The Confederation, in connection with the cantons and private business, takes measures to prevent economic crises and, if neces-

¹ Amended October 1, 1947.

sary, to relieve existing unemployment. The Confederation may act with regard to the creation of employment opportunities.

Art. 32.¹ The measures provided for in Article 31A, 31B, paragraph 2, 31C and 31D may be introduced only in the form of federal laws or federal decrees subject to the referendum. For cases of an urgent character, in times of economic stress, Article 89, paragraph 3, may be invoked.

The cantons must be consulted before the enactment of laws providing for the execution of these measures. As a rule, the execution of the federal regulations must be entrusted to the cantons.

The competent business organizations should also be consulted before the enactment of the laws of execution. They may be asked to cooperate in the execution of these measures.

Art. 32A. The Confederation has the right to legislate regarding the manufacture, importation, purification, sale, and taxation of distilled beverages.

Such legislation shall conduce to diminish the consumption and consequently the importation and production of spirits. It shall encourage the production of table fruit and the use of native distillable matters for food or fodder. The Confederation will reduce the number of distilling plants by means of private purchases.

The concession for the industrial production of distilled beverages is granted to co-operative societies and other private undertakings. The concessions granted must permit of the utilization of the waste matter and residues of fruit, vine, and sugar-beet cultivation and the surplus crops of fruit and potatoes, as far as these raw materials are incapable of being rationally used otherwise than in distillation.

The non-industrial production of spirits from fruit and fruit waste, of cider, wine, grape and wine dregs, gentian roots and other similar materials is permitted in domestic distilleries already existing or in itinerant distilleries, provided that such materials originate exclusively from the individual crop of the producer or have been gathered in a wild state in the country. The spirit thus obtained, which is necessary in the household or agricultural business of the producer, is exempt from taxation. Domestic distilleries which are still in existence after the expiration of a period of fifteen years dating from the acceptance of the present article must, in order to continue working, apply for a concession, which will be granted without payment on conditions to be fixed by law.

Specialties obtained by the distillation of kernel fruit, wine, grape and wine dregs, gentian roots and other similar materials are subjected to the payment of a tax. The producer must, however, be able to get a fair price for his raw materials of native origin.

With the exception of the quantities necessary to the producer, which are exempt from taxation, and specialties, spirits manufactured in the country shall be handed over to the Confederation. The latter shall take them over at fair prices.

The receipts accruing from duties upon the sale and retail trade within the limits of the cantonal territory remain the property of the cantons. Licences for intercantonal and international trade are issued by the Confederation; the receipts therefrom shall be distributed among the cantons in proportion to their populations ordinarily resident.

¹ Amended October 1, 1947.

Half of the net receipts accruing to the Confederation from the taxation of distilled beverages shall be distributed among the cantons in proportion to their populations ordinarily resident; each canton is bound to expend at least ten per cent of its share in combating the causes and effects of alcoholism. The other half of the receipts remains the property of the Confederation; it shall be set apart for old age and dependents' insurance, and shall be paid into the funds established for the same until the time such insurance is introduced.

Art. 32B. The manufacture, importation, transport, sale, and keeping for sale of the liquor called absinthe are prohibited throughout the Confederation. This prohibition extends to all beverages, by whatever names called, which constitute imitations of absinthe. The transport in transit of absinthe and its use for pharmaceutical purposes are excepted.

The foregoing prohibition will come into operation two years after its adoption. Federal legislation will enact the necessary provisions consequent on this prohibition.

The Confederation has the right to impose by law the same prohibition on all other beverages containing absinthe which might constitute a public danger.

Art. 32C. Cantons have the right to subject, by means of legislation, the exercise of the calling of publican and the retail trade in spirituous beverages to the restrictions required by the public welfare. Trade in quantities of less than two liters is deemed to be retail trade in non-distilled spirituous beverages.

Trade in non-distilled spirituous beverages in quantities from two to ten liters may, within the limits of Article 31, paragraph 2, and by means of legislation, be made conditional by the cantons on the payment of a small fee and subjected to the supervision of the authorities.

The sale of non-distilled spirituous beverages may not be subjected by the cantons to special taxation other than license duties.

Juridical persons must not be treated less favorably than physical persons. Producers of wine and cider may, without permission and without paying any duty, sell the product of their own crop in quantities of two liters or over.

The Confederation has the right to legislate on trade in non-distilled spirituous beverages in quantities of two liters or over. The regulations which it may issue must not contain anything which contravenes the principle of freedom of commerce and industry.

Colportage and other means of itinerant sale of spirituous beverages are prohibited.

Art. 33. The cantons may require evidence of capacity from persons desiring to practice the liberal professions.

Federal legislation shall make provision that such persons may be able to obtain certificates of qualification valid throughout the Confederation.

Art. 34. The Confederation has the right to make uniform regulations concerning child labor in factories, the hours of work of adults therein, and the protection of workers in unhealthy and dangerous industries.

The operations of emigration agencies and insurance undertakings not established by the State are subject to federal supervision and legislation.

Art. 34A. The Confederation will introduce, by means of legislation, accident and sickness insurance, regard being had to assistance funds in existence.

It may declare participation in such insurance to be compulsory in general or as regards certain specified categories of citizens.

Art. 34B.¹ The Confederation is authorized to enact regulations with regard to the following matters:

- (a) Protection of employees.
- (b) Relations between employers and employees; in particular, mutual regulation of professional and business matters of common concern.
- (c) General compulsory effect of collective contracts and of other common measures of employers' and employees' organizations intended to insure labor peace.
- (d) Fair compensation for loss of salary during military service.
- (e) Employment placement.
- (f) Unemployment compensation and relief.
- (g) Professional training in industry, trade, commerce, agriculture, and domestic work.

The declaration of a general compulsory effect according to (c) may apply only to subject matters concerning the conditions of employment and is permissible only if minority interests and regional differences are given due consideration and if there is no infringement on the principles of equality before the law and freedom of association.

Unemployment insurance will be carried out by public and private funds made up of bilateral or unilateral contributions. The establishment of public unemployment insurance funds and of a compulsory unemployment insurance system is left to the decision of the individual canton.

The provisions of Article 32 will be applied in this sense.

Art. 34C. The Confederation shall, by means of legislation, institute a system of old age and surviving dependents' insurance; it may later introduce invalidity insurance.

It may declare such insurance to be obligatory in general or as regards certain categories of citizens.

The insurance plan shall be carried into effect with the co-operation of the cantons; application may be made to the public or private insurance societies for their collaboration.

The first two branches of insurance shall be introduced simultaneously.

The financial contributions of the Confederation and the cantons shall not exceed, altogether, one-half of the total sum necessary for the insurance.

From January first, 1926, the Confederation shall set apart for old age and surviving dependents' insurance, the total yield of the tobacco tax.

The Confederation's share of the net receipts accruing from the taxation of spirits shall be set apart for old age and surviving dependents' insurance.

Art. 34D. The Confederation, in the exercise of the powers conferred on it and within the limits of the Constitution, is concerned with the needs of the family.

The Confederation is authorized to legislate regarding family compensation funds. It may declare participation therein to be obligatory in general or for certain groups of the population. It is concerned with

¹ Amended October 1, 1947.

the existing funds, supports the efforts of cantons and professional associations for the establishment of new funds, and may create a central compensation fund. It may make its financial advances contingent upon equitable participation of the cantons.

The Confederation is authorized, in the matter of housing and internal colonization, to support the efforts in favor of the family. A federal law shall indicate the conditions which the Confederation may attach to its financial participation, subject to the cantonal police provisions with respect to buildings.

The Confederation shall, by means of legislation, establish maternity insurance. It may declare participation therein to be obligatory in general or for certain groups of the population and may require contributions to be made even by persons not qualified to benefit by insurance payments. It may make its financial advances contingent upon equitable participation of the cantons.

The laws issued by virtue of the present article shall be executed with the cooperation of the cantons; the collaboration of associations of public or private law may be requested.

Art. 35. It is forbidden to open and run gaming houses.

The cantonal governments may, on certain conditions dictated by public interest, permit gambling for pleasure as in vogue in *kursaals* up to the spring of 1925, provided that the competent authorities are of opinion that such play is necessary for the maintenance or development of the tourist industry and that its organization is assured by an enterprise running a *kursaal* for that purpose. The cantons may likewise forbid such play.

An ordinance of the Federal Council shall determine the conditions dictated by public interest.

Cantonal authorizations shall be submitted to the Federal Council for approval.

One-quarter of the gross receipts from the play shall be paid over to the Confederation, which shall set the same apart, without taking into account its own contributions, for victims of natural catastrophes and works of public utility.

The Confederation may also take the necessary measures in regard to lotteries.

Art. 36. Throughout Switzerland posts and telegraphs are within the domain of the Confederation.

The revenues from posts and telegraphs belong to the federal treasury.

The charges shall be fixed according to the same principles and as equitably as possible in every part of Switzerland.

The inviolable secrecy of letters and telegrams is guaranteed.

Art. 37. The Confederation exercises supreme control over the roads and bridges in the maintenance of which it is concerned.

The sums due to the cantons specified in Article 30 on account of their international Alpine highways shall be withheld by the federal authorities if these highways are not properly maintained by the cantons.

Art. 37A. The Confederation may make regulations concerning motor cars and cycles.

The cantons retain the right to restrict or prohibit motor and cycle traffic. The Confederation may, nevertheless, declare open or partially

open to traffic certain highways necessary for through traffic. The use of highways for the business of the Confederation remains reserved.

Art 37B. Legislation concerning aerial navigation is within the sphere of the Confederation.

Art 38. The Confederation shall exercise all the rights comprised in the coinage monopoly.

It has the sole right of coining money.

It shall determine the monetary system and may, if necessary, regulate the rate of exchange of foreign money.

Art. 39. The right of issuing bank-notes and any other fiduciary money is vested exclusively in the Confederation.

The Confederation may exercise its monopoly of note issue through a state bank under a special administration, or may concede its exercise, subject to the right of redemption, to a central joint-stock bank to be established, which shall be administered with the assistance and under the control of the Confederation.

The principal function of the bank holding the monopoly shall be to regulate the money market in Switzerland and to facilitate payments.

At least two-thirds of the net profits of the bank, after payment of interest or reasonable dividend on the endowment or share capital, and deductions of payments to the reserve funds, shall go to the cantons.

The bank and its branches shall be exempt from all cantonal taxation.

The compulsory acceptance of bank-notes and any other form of fiduciary money may only be decreed by the Confederation in case of necessity in time of war.

Federal legislation shall make provision as to the seat of the bank, its basis and organization, and the carrying into effect of this Article in general.

Art. 40. The system of weights and measures shall be determined by the Confederation.

The laws relating thereto shall be carried out by the cantons under federal supervision.

Art. 41. The manufacture, purchase, trade, and distribution of gunpowder (with the exception of explosives unsuitable for firing) as well as of arms, munitions, and other materials of war belong to the Confederation.

The Confederation shall grant, within this measure, concessions to companies which, from the point of view of the national interest, present the necessary guaranties.

The Confederation shall take measures required for the control of the concessionnaires.

The importation, exportation, and transit of arms and war materials within the meaning of the present constitutional provision can take place only with the authorization of the Confederation.

The Federal Council shall establish by ordinance the modalities of execution.

Art. 41A. The Confederation may charge stamp duties upon deeds, receipts for insurance premiums, bills of exchange and similar instruments, documents in use in transport and other documents relating to commercial operations; such duties may not be imposed on documents concerning transactions in landed property and mortgages. The cantons may not subject to any stamp or registration duty documents

which are liable to federal stamp duty or which have been exempted therefrom by the Confederation.

One-fifth of the net yield of these provisions shall be paid to the cantons.

The carrying into effect of these provisions shall be regulated by law.

Art. 41B. The Confederation is authorized to tax raw and manufactured tobacco.

Art. 42. The expenses of the Confederation shall be defrayed by:

- (a) The revenue from federal property;
- (b) The revenue from federal customs collected at the Swiss frontier;
- (c) The revenue from posts and telegraphs;
- (d) The revenue from the powder monopoly;
- (e) Half the gross yield of the military exemption tax collected by the cantons;
- (f) Contributions by the cantons, to be determined by federal legislation, having special regard to their wealth and taxable resources;
- (g) The revenue from stamp duties.

Art. 43. Every citizen of the canton is a Swiss citizen. As such he may, after having duly proved his qualification as a voter, take part at his place of domicile in all federal elections and referenda.

No person may exercise political rights in more than one canton.

A Swiss who has settled anywhere shall enjoy at his place of domicile all the rights of citizens of the canton, together with all the rights of a burgess of the commune. Participation in the property of commonalties and corporations, and the right to vote in matters exclusively connected therewith, are excluded from these rights, unless cantonal legislation otherwise decides.

In cantonal and communal matters he shall become an elector after settlement for 3 months.

Cantonal laws concerning settlement and on electoral rights in communal affairs possessed by citizens who have settled anywhere shall be submitted to the Federal Council for approval.

Art. 44. No Swiss national may be expelled from the territory of the Confederation or from his canton of origin.

Federal legislation shall determine the rules applicable to the acquisition or loss of Swiss nationality.

It may enact that a child born of foreign parents is a Swiss national from birth when the mother was of Swiss origin by filiation and if the parents are domiciled in Switzerland at the moment of the child's birth. The child acquires civic rights in the mother's commune of origin.

Federal legislation shall lay down the principle governing the establishment of civic rights.

Persons incorporated in virtue of the present provisions enjoy the same rights as other nationals; they have, however, no right to property which is exclusively communal and corporative unless cantonal legislation provide otherwise. The Confederation shall defray at least one-half of the expenditure for assistance which persons incorporated on birth occasion to cantons and communes up to the completion of their eighteenth year. The same applies in the case of establishment of civic rights during the ten years which follow such.

Federal legislation shall determine the cases in which the Confederation shall participate in the expenditure incurred by cantons and communes in assisting naturalized *heimatlos* persons.

Art. 45. Every Swiss citizen has the right to settle at any place in Swiss territory, subject to the production of a certificate of origin or similar document.

The right of settlement may, by way of exception, be refused or withdrawn in the case of persons who have been deprived of their civic rights as a result of a penal conviction.

The right of settlement may further be withdrawn from persons who have been repeatedly sentenced for grave misdemeanors and from persons who become a permanent burden upon public charity and whose commune, or canton of origin, refuses adequate help to them after having been officially requested to provide the same.

In cantons in which domiciliary relief exists, permission to settle may be made conditional, in the case of citizens of the canton, upon the persons being capable of work and not having been a permanent burden upon public charity at their former domicile in the canton of origin.

Every expulsion on account of poverty must be approved by the government of the canton of domicile and notified in advance to the government of the canton of origin.

The canton in which a Swiss citizen establishes his domicile may not require from him any security or impose on him any special charge in respect of such settlement. Similarly, communes may not impose on Swiss citizens domiciled in their territory any taxes other than those imposed upon their own citizens.

The maximum fee chargeable in respect of permits for settlement shall be fixed by federal law.

Art. 46. Persons settled in Switzerland shall normally be subject in matters of civil law to the jurisdiction and legislation of their place of domicile.

Federal legislation will make the necessary provisions for the application of this principle and for preventing the double taxation of a citizen.

Art. 47. Federal legislation shall define the difference between establishment and sojourn, and shall at the same time prescribe the regulations governing the political and civil rights of Swiss citizens during temporary residence.

Art. 48. A federal law shall make the necessary provisions as to the expenses of the illness and burial of poor citizens of one canton who fall ill or die in another.

Art. 49. Liberty of conscience and belief is inviolable.

No person may be compelled to become a member of any religious body, submit to any religious instruction, perform any religious act or incur any penalties, of whatsoever kind, by reason of religious opinions.

The person who exercises paternal or tutelar authority is entitled, in conformity with the foregoing principles, to determine the religious education of children up to the age of sixteen years.

The exercise of civil or political rights may not be limited by ecclesiastical or religious requirements or conditions of any kind whatsoever.

No person may secure exemption, on the ground of religious opinion, from the fulfillment of any civic obligation.

No person may be compelled to pay taxes the proceeds of which are specifically appropriated in payment of the purely religious expenses of any religious community of which he is not a member. The exact execution of this principle is reserved to federal legislation.

Art. 50. The free exercise of forms of worship is guaranteed within the limits compatible with public order and morality.

The cantons and the Confederation may take the measures necessary to maintain public order and peace between the members of the various religious communities and to prevent encroachments by ecclesiastical authorities upon the rights of citizens and of the State.

Disputes within the sphere of public or private law arising out of the formation of religious communities, or the division of existing religious communities, may be submitted to the competent federal authorities.

No bishopric may be established within Swiss territory without the approval of the Confederation.

Art. 51. The Order of Jesuits and societies affiliated with it, may not be admitted in any part of Switzerland and all activities in church and school are forbidden to their members.

This prohibition may be extended, by federal decree, to other religious orders whose activity is dangerous to the State or disturbs the peace between the various religious bodies.

Art. 52. The founding of new religious orders, and the re-establishment of those which have been suppressed, are forbidden.

Art. 53. Civil status and registration in connection therewith are within the sphere of the civil authorities. Federal legislation will enact further provision on this matter.

The control of burial places is vested in the civil authorities, which must provide that every deceased person may receive decent burial.

Art. 54. The right to marry is placed under the protection of the Confederation.

No impediment to marriage may be based upon grounds of religious belief, the poverty of either party, their conduct, or any other considerations whatever of a police nature.

Marriages celebrated in any canton or abroad, in accordance with the law there prevailing, shall be recognized as valid throughout the Confederation.

A wife acquires by marriage the civic and burgess rights of her husband.

Children born before marriage are legitimized by the subsequent marriage of their parents.

No marriage fee or similar tax may be levied on either spouse.

Art. 55. The liberty of the press is guaranteed.

The cantons may, nevertheless, enact measures necessary for the repression of abuses; such laws must be submitted to the Federal Council for approval.

The Confederation may also prescribe penalties in order to suppress abuses directed against itself or its authorities.

Art 56. Citizens have the right to form associations, provided that the objects and methods of such associations are not unlawful or dangerous to the State. Cantonal laws will make the necessary provisions for the prevention of abuses.

Art. 57. The right of petition is guaranteed.

Art. 58. No person may be withdrawn from his natural judge. Accordingly, no extraordinary tribunals may be established.

Ecclesiastical jurisdiction is abolished.

Art. 59. Suits for personal claims against a solvent debtor domiciled in Switzerland must be brought before the judge of his place of domicile; consequently the property of such a person may not be seized or sequestered outside the canton in which he is domiciled by reason of personal claims.

These provisions are, in respect of foreigners, without prejudice to the provisions of international treaties.

Imprisonment for debt is abolished.

Art. 60. Every canton is bound to accord to citizens of the other confederated states the same treatment as to its own citizens in regard to legislation and all that concerns judicial proceedings.

Art. 61. Final civil judgments delivered in one canton may be enforced throughout Switzerland.

Art. 62. Internal taxes on the transfer of property are abolished throughout Switzerland, together with all rights of pre-emption possessed by citizens of one canton against those of other confederated states.

Art. 63. Taxes on the transfer of property to foreign countries are abolished, subject to reciprocity.

Art. 64. Legislation in regard to the following matters falls within the domain of the Confederation:

Civil capacity;

All matters of law relating to commerce and transactions affecting movable property (law of obligation, including commercial law and the law on bills of exchange);

Literary and artistic property;

The protection of inventions applicable to industry, including designs and models;

Suits for debt and bankruptcy;

The Confederation has the right to legislate upon other matters of civil law.

The organization of the judiciary, legal procedure, and the administration of justice remain vested in the cantons to the same extent as hitherto.

Art. 64A. The Confederation has power to legislate in regard to penal law.

The organization of the judiciary, legal procedure, and the administration of justice remain vested in the cantons to the same extent as hitherto.

The Confederation has power to grant subventions to the cantons for the construction of penitentiaries, labor establishments, and houses of correction, and for the carrying out of reforms in the execution of punishments. It has likewise power to give assistance to institutions for the care of deserted children.

Art. 65. Sentence of death may not be pronounced for any political offense.

Corporal punishment is forbidden.

Art. 66. Federal legislation shall prescribe the limits within which a Swiss citizen may be deprived of his political rights.

Art. 67. Federal legislation shall deal with the extradition of accused persons from one canton to another; extradition, may not, however, be made obligatory for political or press offenses.

Art. 68. The measures to be taken to incorporate persons without nationality, and for preventing the occurrence of such cases in future, shall be prescribed by federal law.

Art. 69. The Confederation may take legislative measures to deal with infectious, widespread, and exceptionally dangerous diseases of human beings and animals.

Art. 69A. The Confederation has the right to legislate regarding trade in:

- (a) Foodstuffs;
- (b) Other household commodities and articles of general use, in so far as they may be prejudicial to health or life.

Laws passed in such spheres shall be executed by the cantons under the supervision and with the financial assistance of the Confederation.

The control of importation at the national frontiers is vested in the Confederation.

Art. 69B. The Confederation has the right to legislate regarding the entry, exit, residence, and establishment of foreigners.

The cantons decide, in accordance with federal law, regarding residence and establishment. The Confederation has, however, the right to give rulings in the last resort regarding:

- (a) Permission granted by cantons for residence over prolonged periods and for establishment, as also cases in which indulgent treatment is given;
- (b) The violation of establishment treaties;
- (c) Cantonal expulsions producing effects in federal territory;
- (d) Refusals to grant asylum.

Art 70. The Confederation has power to expel from its territory foreigners who compromise the internal or external security of Switzerland.

CHAPTER II

THE FEDERAL AUTHORITIES

I. The Federal Assembly

Art. 71. Subject to the rights reserved to the people and the cantons (Articles 89 and 121¹), the supreme authority of the Confederation is exercised by the Federal Assembly, composed of two divisions of Councils, viz.:

- (A) The National Council;
- (B) The Council of States.

(A) The National Council

Art. 72. The National Council is composed of deputies of the Swiss people, elected in the proportion of one member per 22,000 souls of the total population. Fractions greater than 11,000 are reckoned as 22,000.

Each canton and, in the divided cantons, each half-canton elect at least one deputy.

Art. 73. Elections to the National Council are direct. They are conducted on the principle of proportional representation, each canton or half-canton forming an electoral constituency.

¹ Now Art. 123.

Federal legislation shall enact detailed provisions to give effect to this principle.

Art. 74. Every Swiss who has reached the age of twenty years, and who is not excluded from the rights of active citizenship by the legislation of the canton in which he is domiciled, has the right to take part in elections and referenda.

Federal legislation may nevertheless pass uniform regulations regarding the exercise of this law.

Art. 75. Every lay Swiss citizen entitled to vote is eligible for membership of the National Council.

Art. 76. The National Council is elected for four years, and shall be completely renewed at each election.

Art. 77. Deputies to the Council of States, members of the Federal Council, and officials appointed by the latter council, may not at the same time be members of the National Council.

Art. 78. The National Council shall select a president and vice-president from amongst its members for each ordinary or extraordinary session.

A member who has been president during an ordinary session may not in the following ordinary session hold this office or that of vice-president.

The same member may not be vice-president during two consecutive ordinary sessions.

In case of an equality of opinions, the president shall have a casting vote; in elections, he shall vote in the same way as other members.

Art. 79. The members of the National Council receive an allowance from the federal treasury.

(B) The Council of States

Art. 80. The Council of States is composed of forty-four deputies from the cantons. Each canton appoints two deputies; in divided cantons, each half-canton elects one.

Art. 81. Members of the National Council and those of the federal council may not be deputies to the Council of States.

Art. 82. The Council of States selects a president and vice-president from among its members for each ordinary or extraordinary session.

Neither the president nor the vice-president may be elected from amongst the deputies of the canton from which the president was chosen for the ordinary session immediately preceding.

Deputies from the same canton may not occupy the office of vice-president during two consecutive ordinary sessions.

In case of an equality of opinions, the president has a casting vote; in elections, he shall vote in the same way as other members.

Art. 83. The deputies to the Council of States receive an allowance from the cantons.

(C) Powers of the Federal Assembly

Art. 84. The National Council and the Council of States deliberate on all matters which the present Constitution places within the competence of the Confederation, and which are not assigned to any other federal authority.

Art. 85. The following matters in particular are within the competence of the two councils:

(1) Laws dealing with the organization and mode of election of the federal authorities;

(2) Laws and ordinances dealing with matters which the Constitution places within the competence of the federal authorities;

(3) Salaries and allowances of members of the authorities of the Confederation and of the federal chancery; the creation of permanent federal offices and the determination of their remuneration;

(4) The election of the Federal Council, the Federal Tribunal, the chancellor, and the general-in-chief of the federal army.

Other rights of election or confirmation may be vested in the Federal Assembly by federal legislation;

(5) Alliances and treaties with foreign states, as also the approval of treaties made by the cantons between themselves or with foreign states; nevertheless, treaties between cantons shall only be brought before the Federal Assembly when the Federal Council or another canton raises objection;

(6) Measures to ensure external safety and the preservation of the independence and neutrality of Switzerland; the declaration of war and the conclusion of peace;

(7) The guarantee of the constitutions and territory of the cantons; intervention in consequence of this guarantee; measures for the internal security of Switzerland and for the maintenance of peace and order; amnesties and pardons;

(8) Measures necessary to ensure the observance of the federal Constitution and the guarantee of cantonal constitutions, and those whose object is to secure the fulfillment of federal obligations;

(9) The control of the federal army;

(10) The enactment of the annual budget, the approval of the state accounts, and decrees authorizing loans;

(11) The general supervision of federal administration and justice;

(12) Appeals against decisions of the Federal Council relating to administrative disputes (Article 113);

(13) Conflicts of jurisdiction between federal authorities;

(14) The revision of the federal Constitution.

Art. 86. Both councils meet once a year in ordinary session on a day fixed by standing orders.

Extraordinary meetings are summoned by the Federal Council, or on the demand of one-quarter of the members of the National Council, or on that of five cantons.

Art. 87. A council may not deliberate unless the deputies present form an absolute majority of the total number of its members.

Art. 88. In the National Council and the Council of States, decisions shall be taken by an absolute majority of persons voting.

Art. 89. Federal laws and decrees may be issued only with the consent of the two councils.

Federal laws and decrees of general import shall be submitted for adoption or rejection by the people when such a demand is made by thirty thousand active citizens or by eight cantons.

Federal decrees of general import whose entry in force permits of no delay can be declared urgent by a decision of the majority of all the members of each of the two councils. In this case, popular voting cannot be demanded. The length of application of urgent federal decrees must be limited.

International treaties concluded for a period of indeterminate duration, or for more than fifteen years, shall likewise be submitted for acceptance

or rejection by the people if a demand to this effect be made by thirty thousand active citizens or by eight cantons.

Art. 90. Federal legislation shall determine the forms and waiting periods to be observed in referenda.

Art. 91. The members of the two councils vote without instructions.

Art. 92. Each council shall deliberate separately. Nevertheless, in the cases of the elections mentioned in Article 85 (4), the exercise of the right of pardon or a decision on a conflict of jurisdiction (Article 85 [13]), the two councils shall meet in joint session under the chairmanship of the president of the National Council, decisions being reached by a majority of all the members of the two councils voting.

Art. 93. The initiative appertains to each of the two councils and each of their members.

The cantons may exercise the same right by correspondence.

Art. 94. Meeting of the councils shall normally be public.

II. The Federal Council

Art. 95. The supreme directing and executive authority of the Confederation is exercised by a federal council composed of seven members.

Art. 96. Members of the Federal Council are appointed for four years by the councils in joint session, and are chosen from among all Swiss citizens eligible for the National Council. No more than one member of the Federal Council may, however, be chosen in the same canton.

The Federal Council is completely renewed after every renewal of the National Council.

Vacancies arising during the period of four years are filled at the next meeting of the Federal Assembly, for the remainder of the period of office.

Art. 97. The members of the Federal Council may not, during their term of office, occupy any other position, either in the service of the Confederation or of a canton, or engage in any other calling or profession.

Art. 98. The President of the Confederation shall preside over the Federal Council. A vice-president shall be appointed.

The President of the Confederation and the vice-president of the Federal Council are nominated by the Federal Assembly for one year from amongst members of the council.

An outgoing president cannot be elected president or vice-president for the following year.

The same member cannot occupy the position of vice-president for two consecutive years.

Art. 99. The President of the Confederation and the other members of the Federal Council shall receive an annual salary from the federal treasury.

Art. 100. The Federal Council may not deliberate unless at least four members are present.

Art. 101. Members of the Council have the right to speak, but not to vote, in both divisions of the Assembly, as well as the right of proposing motions on subjects under discussion.

Art. 102. The powers and duties of the Federal Council, within the limits of the present Constitution, are more particularly the following:

(1) It directs federal business in accordance with the laws and ordinances of the Confederation.

(2) It insures the observance of the Constitution, the laws and ordinances of the Confederation and the provisions of federal concordats. It takes the necessary measures to this end, of its own accord or upon complaint, in such cases as are not included among those which have to be submitted to the Federal Tribunal in accordance with Article 113.

(3) It enforces the guarantee of the cantonal constitutions.

(4) It submits drafts of laws and ordinances to the Federal Assembly and reports upon proposals submitted to it by the councils or the cantons.

(5) It provides for the execution of the laws and ordinances of the Confederation, the judgments of the Federal Tribunal, and the compromises or arbitral awards upon disputes between cantons.

(6) It makes such appointments as are not assigned to the Federal Assembly, the Federal Tribunal, or other authority.

(7) It examines treaties of the cantons between themselves or with foreign countries, and gives its approval thereto if it thinks fit. (Article 85 [5]).

(8) It watches over the interests of the Confederation abroad, paying particular notice to its international relations, and has general charge of foreign affairs.

(9) It insures the external security of Switzerland and the maintenance of its independence and neutrality.

(10) It insures the internal security of Switzerland and the maintenance of tranquillity and order.

(11) In case of urgency arising when the Federal Assembly is not in session, the Federal Council has authority to raise the necessary troops and dispose of them, provided that it convene the councils immediately if the number of troops raised exceeds two thousand, or if they remain mobilized for more than three weeks.

(12) It has charge of federal army affairs and of all the other branches of administration which are vested in the Confederation.

(13) It examines the laws and ordinances of the cantons which are required to be submitted for its approval; it supervises the branches of cantonal administration which are placed under its control.

(14) It administers the finances of the Confederation, prepares the budget, and renders accounts of receipts and expenditure.

(15) It supervises the conduct of business by all officials and servants of the federal administration.

(16) It gives account of its work to the Federal Assembly in each ordinary session, submits to it a report upon the internal condition and foreign relations of the Confederation, and recommends for consideration such measures as it thinks appropriate for promoting the general welfare.

In addition, it makes special reports whenever the Federal Assembly or either division thereof so requests.

Art. 103. The business of the Federal Council is distributed among its members by departments. Decisions emanate from the Federal Council as a single authority.

Federal legislation may authorize departments, or services in connection therewith, to settle certain affairs themselves, subject to a right of appeal.

The cases in which such appeal may be made to a federal administrative court shall be determined by federal legislation.

Art. 104. The Federal Council and its departments are authorized to call in experts for special purposes.

III. *The Federal Chancery*

Art. 105. A federal chancery, at the head of which is the chancellor of the Confederation, acts as the secretariat of the Federal Assembly and the Federal Council.

The chancellor is elected for the period of four years by the Federal Assembly, at the same time as the Federal Council.

The chancery is under the special supervision of the Federal Council.

The organization of the chancery is determined by a federal law.

IV. *The Federal Tribunal*

Art. 106. There is a Federal Tribunal for the administration of justice in federal matters.

In penal cases there exists, in addition, trial by jury (Article 112).

Art. 107. Members of the Federal Tribunal and their substitutes are appointed by the Federal Assembly, who shall pay regard to the representation of the three official languages.

The organization of the Federal Tribunal and its divisions, the number of its members and their substitutes, their term of office and emoluments shall be determined by law.

Art. 108. Any Swiss citizen eligible for the National Council may be appointed to the Federal Tribunal.

Members of the Federal Assembly and the Federal Council, and officials appointed by them, may simultaneously form part of the Federal Tribunal.

Members of the Federal Tribunal may not, during their term of office, occupy any other position, either in the service of the Confederation or in a canton, or follow any other calling or profession.

Art. 109. The Federal Tribunal shall organize its secretariat and appoint the staff thereof.

Art. 110. The Federal Tribunal shall have civil cognizance of disputes:

- (1) Between the Confederation and the cantons;
- (2) Between the Confederation of the one part, and corporations or private individuals of the other part, when the latter are plaintiffs and the dispute reaches the degree of importance to be prescribed by federal legislation;
- (3) Between cantons;
- (4) Between cantons of the one part, and corporations or private individuals of the other part, where either party so demands and the dispute reaches the degree of importance to be prescribed by federal legislation.

¶ The Federal Tribunal shall further take cognizance of differences in regard to loss of nationality and disputes between communes of different cantons concerning civic rights.

Art. 111. The Federal Tribunal is bound to judge other cases when the parties agree to appeal to it and the matter in dispute is of the degree of importance to be prescribed by federal legislation.

Art. 112. The Federal Tribunal, with the assistance of a jury to decide the facts, has penal jurisdiction as to:

- (1) Cases of high treason against the Confederation, and revolt and violence against the federal authorities;
- (2) Crimes and offenses against international law;
- (3) Crimes and political offenses which are the cause or consequence of disorders necessitating armed federal intervention;
- (4) Charges against officials appointed by a federal authority, when brought before the tribunal by that authority.

Art. 113. The Federal Tribunal has also jurisdiction in regard to:

- (1) Conflicts of competence between federal authorities of the one part, and cantonal authorities of the other part;
- (2) Disputes between cantons, when in the sphere of public law;
- (3) Complaints in respect of violation of constitutional rights of citizens, and complaints by individuals in respect of violation of concordats or treaties.

Administrative disputes to be determined by federal legislation are excluded.

In all the cases above mentioned, the Federal Tribunal shall administer the laws passed by the Federal Assembly, and such ordinances of that assembly as are of general application. It shall likewise act in accordance with treaties ratified by the Federal Assembly.

Art. 114. In addition to the matters mentioned in Articles 110, 112, and 113, other matters may be placed by federal legislation within the competence of the Federal Tribunal; in particular, powers may be conferred on the tribunal for the purpose of ensuring the uniform application of the laws contemplated in Article 64.

IVA. Federal Administrative and Disciplinary Jurisdiction

Art. 114A. The federal administrative court has cognizance of administrative disputes in federal matters referred to it by federal legislation.

It has also jurisdiction in the disciplinary cases of the federal administration which are referred to it by federal legislation, in so far as such cases have not been referred to a special jurisdiction.

The administrative court shall apply the federal legislation and treaties approved by the Federal Assembly.

Subject to the approval of the Federal Assembly, the cantons have the right to give the federal administrative court jurisdiction in administrative disputes regarding cantonal affairs.

The organization of federal administrative and disciplinary jurisdiction, and its procedure, are regulated by law.

V. Various Provisions

Art. 115. Everything which concerns the authorities of the Confederation shall be the subject of federal legislation.

Art. 116. German, French, Italian, and Romanche are the national languages of Switzerland.

The official languages of the Confederation shall be: German, French, and Italian.

Art. 117. Officials of the Confederation are responsible for their conduct in office. A federal law shall determine what such responsibility involves.

CHAPTER III

THE REVISION OF THE FEDERAL CONSTITUTION

Art. 118. The federal Constitution may at any time be wholly or partially revised.

Art. 119. Total revision shall be effected in the forms laid down in respect of federal legislation.

Art. 120. When either division of the Federal Assembly decides in favor of a total revision of the federal Constitution, and the other division

does not agree, or when fifty thousand Swiss voters demand a total revision, the question whether the federal Constitution ought to be revised is in either case submitted to the Swiss nation, which votes in the affirmative or negative.

If in either case a majority of the Swiss nation who vote pronounce in the affirmative, the two councils shall be renewed for the purpose of undertaking the revision.

Art. 121. A partial revision may be effected either by means of the popular initiative, or in the forms laid down in respect of federal legislation.

The popular initiative consists of a demand by fifty thousand Swiss voters for the adoption of a new constitutional article or for the repeal or modification of certain articles of the Constitution already in force.

If by means of the initiative several different provisions are submitted for revision of or for addition to the federal Constitution, each of them must form the subject of a separate initiative demand.

The initiative demand may take the form of a proposal couched in general terms, or of a bill complete in all details.

When the demand is couched in general terms, the federal chambers, if they approve thereof, will proceed to undertake the partial revision in the sense indicated, and will submit and draft acceptance or rejection by the people and the cantons. If, on the contrary, they do not approve the demand, the question of partial revision shall be submitted to the vote of the people; if a majority of the Swiss citizens taking part in the vote pronounce in the affirmative, the Federal Assembly will proceed to undertake the revision in conformity with the popular decision.

When a demand is presented in the form of a bill complete in all details, and the Federal Assembly approves thereof, the bill shall be submitted for acceptance or rejection by the people and the cantons. If the Federal Assembly is not in agreement, it may draw up a separate bill or recommend to the people the rejection of the bill proposed, and submit to the vote its counter-draft or its proposal for rejection at the same time as the bill presented by popular initiative.

Art. 122. Federal legislation shall determine the formalities to be observed in regard to popular initiative and to referenda concerning the revision of the federal Constitution.

Art. 123. The revised federal Constitution, or the revised part thereof, shall enter into force when it has been accepted by the majority of the Swiss citizens taking part in the vote thereon and by the majority of the states.

In reckoning a majority of the states, the vote of a half-canton shall be counted as half a vote.

The result of the popular vote in each canton shall be regarded as the vote of the State.

TRANSITORY PROVISIONS

1. The proceeds of the postal and customs services shall be divided on the existing bases until the time when the Confederation assumes the military expenditures heretofore borne by the cantons.

The federal legislation shall moreover provide that the part which might entail modifications resulting from Articles 20, 30, 36 of second paragraph, and 42 E, for the treasuries of certain cantons shall affect the

latter only gradually and shall reach its total figure only after a transitional period of several years.

The cantons which, at the moment of the entering into force of Art. 20 of the Constitution may not have fulfilled the military obligations imposed upon them by the former Constitution and the federal laws, shall be obliged to fulfill those obligations at their own expense.

2. The provisions of the federal laws, regional agreements, and constitutions or of the cantonal laws contrary to the present Constitution shall cease to be in force upon the adoption of the latter or upon the promulgation of the laws contemplated therein.

3. The new provisions concerning the organization and jurisdiction of the federal tribunal shall enter into force only after the promulgation of the pertinent federal laws.

4. A period of five years is accorded to the cantons to introduce free public primary instruction (Art. 27).

5. The persons who engage in a liberal profession and who, prior to the promulgation of the federal law contemplated in Art. 33, have obtained a certificate of capacity from a canton or from a regional authority representing several cantons, may engage in such profession throughout the territory of the Confederation.

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SYRIA

SUMMARY

INTERNATIONAL STATUS

Syria is a member of the United Nations. It signed the Charter at San Francisco on June 26, 1945, and deposited its ratification October 19, 1945.

Syria is a party to the Statute of the International Court of Justice, but is not, as of the time of our going to press, subject to the compulsory jurisdiction of that court.¹ It is a member of the Postal Union, and other international organizations.²

¹ See Yearbook of the Court 1947-48, p. 38; also Documents & State Papers, U. S. Dept. of State, June 1948, Vol. 1, No. 3, p. 192.

² See Table I.

It was formerly a province of the Turkish Empire. It was placed, with Lebanon, under the mandate of France by decision of the Council of the League of Nations, effective September 29, 1923. French rule was marked by administrative and economic difficulties and by armed uprisings including the Druse Rebellion (1925-27), the Damascus outbreak (1925), and riots and strikes stimulated by Arab nationalist sentiment.

On December 27, 1943, the powers previously exercised by France were transferred to the Syrian and Lebanese governments. The independence of Syria was recognized by the United Kingdom on October 27, 1941, and by the United States and the USSR on July 25, 1944. Fighting with French troops occurred during May and June of 1945, owing to the desire of France for strategic bases and a privileged position. These plans were finally renounced, and all French troops had been withdrawn before the end of 1946.

Syria declared war on Germany and Japan on February 26, 1945.

FORM OF NATIONAL GOVERNMENT

Syria has a written constitution promulgated by the High Commissioner of the French Republic, effective May 14, 1930, and amended by the abrogation of the last Article (116) by the Syrian Parliament on November 27, 1943.¹ The Constitution declares that Syria is a parliamentary republic.²

SOURCE OF SOVEREIGN POWER

"The nation is the source of all public power."³

RIGHTS OF THE PEOPLE

The Constitution guarantees equality before the law,⁴ personal freedom,⁵ prohibition of corporal punishment and of deportation,⁶ inviolability of dwellings,⁷ protection of property,⁸ liberty of conscience,⁹ freedom of speech and the press,¹⁰ inviolability of communications,¹¹ free education and compulsory primary education,¹² and the right of petition.¹³

LEGISLATIVE DEPARTMENT

Legislative power is exercised by the Chamber of Deputies¹⁴ composed of members elected by direct, universal, secret suffrage for a term of four years.¹⁵ Provision is made for the representation of religious minorities.¹⁶

¹ The Constitution had been approved by a Syrian Constituent Assembly, with the exception of Art. 116, which was added by the High Commissioner. Art. 116 contained a reservation to the effect that no provision of the Constitution was or could be "in conflict with the obligations contracted by France in respect of Syria, more particularly in regard to the League of Nations." Additional amendments were made on March 20, 1948.

² Const. of 1930, Art. 3.

³ Id., Art. 7.

⁴ Id., Art. 13.

⁵ Id., Art. 18.

⁶ Id., Art. 30.

⁷ Id., Art. 29.

⁸ Id., Art. 11.

⁹ Id., Art. 15.

¹⁰ Id., Arts. 19, 21.

¹¹ Id., Arts. 36, 37, 39.

¹² Id., Art. 6.

¹³ Id., Art. 12.

¹⁴ Id., Arts. 16, 17.

¹⁵ Id., Art. 27.

¹⁶ Id., Art. 37.

EXECUTIVE DEPARTMENT

Executive power is exercised by the President who is elected by the Chamber of Deputies.¹ He appoints the prime minister and ministers and may, with their approval, dissolve the chamber.² The President must be a Mohammedan.³

JUDICIAL DEPARTMENT

The judicial power is exercised, in accordance with a separate law, by judges who are "independent and irremovable, within the limits of the law."⁴

AREA, POPULATION, LANGUAGE

Syria has an estimated area of 54,000 square miles and an estimated population of 3,000,000. The official language is Arabic, "except in so far as other languages may be used in addition, in virtue of a law or an international agreement."⁵

¹ Const. Arts. 31, 68.

⁴ Id., Art. 34.

² Id., Arts. 75, 77.

⁵ Id., Art. 24.

³ Id., Art. 3.

CONSTITUTION OF SYRIA

May 14, 1930, as amended¹

PART I

FUNDAMENTAL PROVISIONS

CHAPTER 1

The State and the Territory

Art. 1. Syria is an independent and sovereign state. No part of the territory may be alienated or ceded.

Art. 2. Syria constitutes an indivisible political unit.

Art. 3. Syria is a parliamentary republic. The religion of the President is Mohammedanism. The capital of Syria is the city of Damascus.

Art. 4. The Syrian flag shall be composed as follows: the length shall be double the height. It shall contain three bands of equal dimensions, the upper band being green, the middle band white, and the lower band black. The white portion of the flag shall bear three red stars in line, having five points each.

CHAPTER 2

Rights of Individuals

Art. 5. The conditions under which Syrian nationality may be acquired or forfeited shall be laid down by the law.

Art. 6. All Syrians shall be equal in the eyes of the law. They shall enjoy equal civil and political rights; they shall be bound by the same obligations and subjected to the same charges. No distinction shall be made between them in respect of religion, faith, race, or language.

Art. 7. Personal freedom shall be guaranteed. No person may be arrested or kept in custody, except in cases determined by the law and in observance of the forms prescribed by it.

Art. 8. Every person who is arrested or detained in custody shall be informed within twenty-four hours of the grounds for such detention or arrest, and of the authority at whose instance it has been carried out; and such persons shall, within the same period, be accorded all possible facilities for preparing their defence.

Art. 9. No offence shall be punished and no conviction may be pronounced, except in conformity with the law.

Art. 10. No person shall be tried except before the courts prescribed by law.

Art. 11. Corporal punishment is forbidden; it is likewise forbidden to deport Syrians from their national territory or to compel them or forbid them to reside in any place, except as provided by the law.

Art. 12. Dwellings shall be inviolable; no one may enter therein, except in the circumstances and in the manner prescribed by law.

Art. 13. Rights of ownership shall be protected by law; no person may be expropriated, except on grounds of public utility and in the circum-

¹ Translation kindly supplied by the Syrian Legation, Washington, with information concerning amendments of March 20, 1948.

stances defined by law and on condition that fair compensation is paid beforehand.

Art. 14. The general confiscation of property is forbidden.

Art. 15. There shall be absolute liberty of conscience; the State shall respect all creeds and religions established in the country; it shall guarantee and protect the free exercise of all forms of worship consistent with public order and good morals; it shall also guarantee for all peoples, to whatever creed they belong, respect of their religious interests and their personal rights.

Art. 16. Freedom of thought shall be guaranteed; all persons shall be entitled to express their views verbally, in writing, in speeches, or graphically, subject to the limitations provided by the law.

Art. 17. Freedom of the press and of printing shall be guaranteed, subject to the conditions laid down in the law.

Art. 18. Postal, telegraphic, and telephonic communications shall be inviolable and may not be delayed or censored, except as provided by law.

Art. 19. Education shall be free, in so far as it is not contrary to public order and good morals and is not detrimental to the dignity of the country or of religion.

Art. 20. Education shall be directed to raising the moral and intellectual standard of the people on lines best suited to the national characteristics and to promoting concord and a fraternal spirit among all citizens.

Art. 21. Primary education shall be compulsory for all Syrians of both sexes, and shall be given free of charge in the public schools.

Art. 22. The curriculum for public education shall be laid down by a law and shall ensure educational uniformity.

Art. 23. All schools shall be placed under government supervision.

Art. 24. Arabic shall be the official language in all the public services, except in so far as other languages may be used in addition, in virtue of a law or an international agreement.

Art. 25. Freedom of assembly and association shall be guaranteed in the manner prescribed by the law.

Art. 26. All Syrians shall have access to public employment, without any other distinction than that due to their qualifications or capacity, subject to the conditions laid down by the law.

Art. 27. All Syrians shall be entitled to submit requests or petitions, in conformity with the law, to the authorities or to Parliament, whether collectively or individually, and in regard to business, personal, or general matters.

Art. 28. The rights of the different religious communities shall be guaranteed, and such bodies may found schools for the education of children in their own language, provided always that they conform to the principles laid down by the law.

PART II

PUBLIC POWERS

CHAPTER I

General Provisions

Art. 29. The nation is the source of all public power.

Art. 30. The legislative power shall be exercised by the Chamber of Deputies.

Art. 31. The executive power shall be entrusted to the President of the Republic, by whom it shall be exercised, with the assistance of the ministers, under the conditions laid down in the present Constitution.

Art. 32. The right to introduce bills shall be vested in the representatives of the Republic and the Chamber of Deputies.

Art. 33. Before a law can be promulgated, it must have been adopted by the Chamber.

Art. 34. The judicial power shall be exercised in accordance with a statute established by law and affording the necessary guarantees to the judges and persons amenable to their jurisdiction. The judges shall be independent and irremovable, within the limits of the law; judgments shall be rendered and executed in the name of the Syrian people.

CHAPTER 2

The Legislative Power

Art. 35. The Chamber of Deputies shall consist of members elected in conformity with the electoral law, which shall be framed in accordance with the principles laid down in the following articles.

Art. 36. Every citizen of twenty years of age or upwards shall be entitled to the suffrage, provided that he has not been deprived of his civil rights and that he fulfills the conditions laid down in the electoral law.

Art. 37. The electoral law shall institute the system of the secret ballot and shall provide for the representation of religious minorities.

Art. 38. Deputies must be thirty years of age and must fulfill the conditions prescribed by the law.

Art. 39. The duration of Parliaments shall be for a period of four years.

Art. 40. The elections for the renewal of the Chamber shall be carried out within a period of sixty days preceding the expiry of its mandate.

Art. 41. The method of balloting shall be prescribed by the law. Every candidate shall be entitled to take part in the supervision of the electoral procedure, under the conditions prescribed by the law.

Art. 42. Every deputy shall represent the whole of the nation and may not accept any restriction of his mandate.

Art. 43. A deputy may also at the same time discharge the functions of a minister.

Art. 44. The Chamber shall hold two ordinary sessions each year, the first session shall open on the first Tuesday following March fifteenth, and shall terminate at the end of May; the second shall open on the first Tuesday following October fifteenth, and shall continue till the end of the year. The second session shall be primarily devoted to the discussion and the adoption of the budget.

Art. 45. The ordinary sessions shall begin and end automatically on the date fixed in the preceding article.

The President of the Republic may convene the Chamber in extraordinary session. The dates of the opening and termination of extraordinary sessions shall be fixed by a decree. The agenda shall be announced in the decree convening the Chamber. The President of the Republic shall be bound to issue a decree convening the Chamber of Deputies in extraordinary session at the request of an absolute majority of the deputies.

Art. 46. Before assuming their duties, the deputies shall swear fidelity to the nation and the Constitution. This oath shall be taken with all due solemnity in the presence of the assembly.

Art. 47. The assembly shall decide by an absolute majority as to the validity of elections.

Art. 48. The meetings of the assembly shall be public; nevertheless, the assembly may sit in private at the request of the government or ten of its members. In such cases, the assembly shall decide at a private meeting whether the proceedings shall continue in private or not.

Art. 49. The assembly cannot adopt any decision unless an absolute majority of the members composing it are present.

Art. 50. Decisions shall be taken by a simple majority, except where otherwise provided by law. Should the votes be equal, the proposal under discussion shall be rejected.

Art. 51. The Chamber shall vote on questions submitted for its consideration by a show of hands, or by members rising or remaining in their seats, or by open ballot. A vote by open ballot shall be the rule for the adoption of a bill as a whole, and in regard to a question of confidence. Elections and appointments shall be decided by secret ballot.

Art. 52. Any member of the Chamber is entitled to interpellate or interrogate ministers in conformity with the rules of procedure of the assembly.

Art. 53. All motions of want of confidence must be submitted in writing and signed by at least ten deputies. Ministers are entitled to adjourn the discussion thereof for one week. A vote of want of confidence shall not be deemed to be adopted unless it is passed by a majority of votes in the assembly. No motion of this character may be submitted during the voting of the budget.

Art. 54. Every bill must be examined by a parliamentary committee before being discussed in the Chamber.

Art. 55. No bill which has been rejected by the Chamber may be re-introduced during the same session.

Art. 56. The Chamber may not adopt a bill until it has been discussed article by article. A vote by nominal roll-call is requisite for the adoption of the bill as a whole.

Art. 57. The Chamber has a right of enquiry in certain special cases in which it is given powers by the rules of procedure.

Art. 58. No deputy may be prosecuted in respect of opinions expressed by him in the Chamber.

Art. 59. During the sessions, deputies shall enjoy parliamentary immunity, and no measure of constraint may be taken against them without the assent of the assembly, except in the case of detection in the act of committing an offence.

Art. 60. In the event of a vacancy occurring, the seat shall be filled within two months. The new member's term of office shall terminate with the mandate of the legislature.

Art. 61. A seat falling vacant shall not be filled if the mandate of the Chamber has less than six months to run.

Art. 62. The Chamber shall draw up its own rules of procedure.

Art. 63. At the opening of the October session, the Chamber, under the presidency of its oldest member, the two youngest members acting as secretaries, shall proceed immediately to elect, by secret ballot and by

an absolute majority of the votes cast, a president, two vice-presidents, two secretaries, and three comptrollers. At the second ballot, a relative majority shall be sufficient. Should the votes be equal, the oldest candidate shall be elected.

Art. 64. Deputies may only vote if they are present at a meeting. Voting by proxy shall not be allowed.

Art. 65. The Chamber, represented by its president, is alone entitled to maintain order among its members. No armed forces may enter the assembly hall, or be posted in its neighborhood, except at the demand of the president.

Art. 66. No petition may be submitted to the Chamber otherwise than in writing.

Art. 67. The remuneration of members of the Chamber shall be determined by a law.

CHAPTER 3

Concerning the Executive Power

I. The President of the Republic

Art. 68.¹ The President of the Republic shall be elected by secret ballot by an absolute majority of the members of the Chamber. At the third ballot, a relative majority shall be sufficient. The President shall hold office for a term of five years. No person shall be eligible for the office of President of the Republic who does not fulfill the conditions of eligibility for the Chamber of Deputies and who has not reached the age of thirty-five.

Art. 69. The offices of President of the Republic and of deputy may not be held simultaneously.

Art. 70. When assuming office, the President shall take an oath of fidelity to the nation and Constitution in the presence of the assembly in the following terms:

I swear by Almighty God to observe the Constitution and laws of the country, and to maintain the independence of the country and its territorial integrity.

Art. 71. When the Chamber meets to elect the President of the Republic, it shall proceed with his election before discussing any other matter.

Art. 72. The President shall promulgate laws adopted by the Chamber and shall have no power to modify their provisions. He may not exempt any person from the observation of the said laws. The method of promulgating and publishing the laws shall be prescribed by a special law.

Art. 73. The President shall exercise the prerogative of pardon. Amnesties may not be accorded except in virtue of a law.

Art. 74. The President shall conclude and sign treaties; those concerning the safety of the State or the public finances, as also commercial treaties and, in general, all treaties which cannot be denounced at the expiry of any year, shall not, however, come finally into force until they have been adopted by the Chamber.

Art. 75. The President of the Republic shall select the Prime Minister and shall appoint the ministers on the nomination of the latter. He shall accept their resignations. He shall appoint representatives of the

¹ As amended March 20, 1948.

Republic abroad and receive the representatives of foreign countries; he shall appoint civil officials and magistrates. He shall preside at public ceremonies under the conditions prescribed by the law.

Art. 76. Every instrument issued by the President, with the exception of those relating to the appointment or resignation of the Prime Minister, must be countersigned by the minister concerned.

Art. 77. With the approval of the cabinet, and on the responsibility of that body, the President may issue a decree dissolving the Chamber before the legal expiry of its mandate. The grounds on which the President dissolves the Chamber shall be stated in the decree, which shall also provide for the convening of the electoral bodies; the latter shall proceed to carry out new elections within a period not exceeding two months.

The new assembly shall be convened within a fortnight after the promulgation of the results of the elections. If no fresh elections have been carried out, or if the new assembly has not been convened within four months, the former Chamber shall meet as of right and shall exercise its mandate until the new elections have taken place.

Art. 78. The President may not dissolve the Chamber more than once on the same grounds.

Art. 79. The President shall promulgate laws within one month from the date of their transmission to the government, after having been definitively adopted. If a law has not been promulgated within that period, it shall come automatically into force. Laws which are declared urgent by the Chamber shall be promulgated within eight days.

Art. 80. Within the time allowed for promulgation, the President may request that a law should be further discussed. If the Chamber confirms its former vote by a two-thirds majority, the law shall come into force and must be promulgated.

Art. 81. The President may, with the assent of the cabinet, adjourn the Chamber for a period not exceeding one month. He may not do so more than once during the same session.

Art. 82. The President may not be called to account for actions performed by him in the discharge of his duties, except in the case of violation of the Constitution or high treason. His responsibility in respect of offences against the ordinary law shall be subject to the ordinary law. He may not be indicted for these offences or for violating the Constitution or for high treason, except by the Chamber of Deputies, acting in virtue of a decision adopted by a majority of two-thirds of the members composing the assembly. He may not be tried except by the High Court, as constituted under Article 97 of the present Constitution. The function of public prosecutor at the High Court shall be exercised by two judicial officials appointed each year by the court of cassation at a general meeting.

Art. 83. Should the President be indicted, he shall be suspended from his functions, and the presidency shall remain vacant until the High Court has rendered its decision.

Art. 84. Should the presidency become vacant, the executive power shall be temporarily exercised by the cabinet.

Art. 85. One month at least and two months at most before the expiry of the term of office of the President of the Republic, the Chamber shall be summoned by its president for the purpose of electing the new President. Should it not be thus summoned, the Chamber shall meet of its

own accord on the tenth day preceding the expiry of the President's term of office.

Art. 86. Should the presidency become vacant through the death or resignation of the President, or for any other cause, the assembly shall meet within eight days, of its own accord, to elect a new President. If the Chamber is dissolved at the time the vacancy occurs, the electoral bodies shall be convened without delay, and as soon as the elections have taken place, the Chamber shall meet as of full right.

Art. 87. The emoluments of the President shall be fixed by a law; they may neither be increased nor diminished during his term of office.

II Concerning the Ministers

Art. 88. The cabinet exercises its authority over all the services of the State; it meets under the chairmanship of the Prime Minister to decide on important questions.

Art. 89.¹ The number of ministers shall not exceed twelve; they need not necessarily be members of Parliament.

Art. 90. The ministers shall be jointly responsible to Parliament for the general policy of the government. They shall be individually responsible in respect of matters arising in their respective departments. The cabinet shall submit its general program to the Chamber through the Prime Minister or another minister.

Art. 91. Ministers may attend meetings of the Chamber, may address the Chamber, and may obtain assistance from the officials of the government in the Chamber.

Art. 92. No minister may buy or rent anything which is the property of the State domains, even at a public auction. He may not participate in contracts for supplies entered into by the public administrations, nor may he during his term of office be on the board of any business.

Art. 93. No motion of want of confidence in respect of the cabinet or of a minister may be put to the vote unless at least two-thirds of the members of the Chamber are present.

In case, however, the question of confidence is raised by the cabinet or by one of the ministers, it may be discussed if a majority of the members are present.

A cabinet or a minister in respect of whom a vote of want of confidence has been adopted shall be required to resign.

Art. 94. The Chamber of Deputies may indict ministers for high treason or abuse of powers, in virtue of a decision which may only be taken by a majority of two-thirds of the total number of deputies. The civil responsibility of ministers shall be determined by a special law, in which regard shall be paid to the principle of pecuniary responsibility towards the State.

Art. 95. A minister who is indicted shall be tried by the High Court.

Art. 96. A minister shall leave office as soon as he is indicted. The minister's resignation shall not prevent proceedings being taken or continued against him.

CHAPTER 4

Concerning the High Court

Art. 97. The High Court shall consist of fifteen members; namely eight deputies elected by the Chamber of Deputies at the beginning of each year and seven Syrian magistrates occupying the highest posts in the

¹ As amended March 20, 1948.

judicature, in order of rank or, should their rank be equal, in order of seniority. These magistrates shall be nominated each year by the court of cassation at a general meeting. The High Court shall meet under the presidency of the senior magistrate in order of rank. Its judgments shall be rendered by a majority of ten votes. The duties of public prosecutor shall be carried out by the attorney-general of the court of cassation, except in the case of the indictment of the President of the Republic, where this duty shall be undertaken by a majority nominated by the court of cassation under the conditions provided in Article 82 of the present Constitution. The procedure to be followed before the High Court shall be determined by a law.

PART III

FINANCES

Art. 98. Taxes shall be established for purposes of common utility. They may only be levied, modified, or abolished in virtue of a law. No person may be exempted from a tax except in virtue of a law.

Art. 99. Each year, at the beginning of the October session, the government shall submit to the Chamber of Deputies the general budgetary estimates of state revenue and expenditure for the coming year. The budget shall be voted upon article by article.

Art. 100. During the discussion of the budget or of draft laws involving the opening of supplementary or extraordinary credits, the Chamber may not increase the credits proposed either by way of amendment or of independent proposals. The Chamber may, however, adopt laws involving further expenditure after the close of this discussion. The parliamentary committee appointed to examine the budgetary estimates shall be entitled to modify them.

Art. 101. No extraordinary credit may be opened except in virtue of a special law. Nevertheless, should unforeseen circumstances arise making urgent expenditure necessary, the President of the Republic may in virtue of a decree adopted with the approval of the cabinet open extraordinary or supplementary credits or effect any transfer of credits. Such credits may not exceed two thousand pounds per item. The measures thus decreed shall be submitted to the Chamber for ratification at the first ensuing session.

Art. 102. If the Chamber of Deputies has not given a final decision on the budgetary estimates before the expiry of the session devoted to their examination, the President of the Republic shall convene an extraordinary session to terminate at the end of January for the purpose of continuing the discussion of the budget. In that case, provisional credits, calculated on the basis of one-twelfth of the preceding financial year, shall be opened in virtue of a decree. During this period, taxes and dues shall be levied, and disbursements effected, in conformity with the laws in force. If at the end of the aforesaid extraordinary session the budget has not been finally voted, the President of the Republic may, by a decree adopted with the approval of the cabinet, give effect to the budgetary estimates in the form in which they were submitted to the Chamber.

The President of the Republic may not exercise this right unless the budgetary estimates were submitted to the Chamber at least fifteen days before the beginning of the session.

Art. 103. The final accounts for the closed financial year shall be submitted to the Chamber within a time-limit not exceeding two years

reckoned from the end of the budgetary year in question. A board of auditors shall be created by a special law to audit all receipts and expenditure. This board shall be an independent body and its members shall be irremovable, except as otherwise provided by the law and with the approval of the Parliament.

Art. 104. No public loan or obligation involving a charge upon public funds may be contracted except by virtue of a law.

Art. 105. No concession for the exploitation of the natural resources of the country or for a service of public utility or any monopoly of such a nature as to involve financial liability to the State may be granted except by virtue of a law. Such concessions or monopolies may only be granted for a limited period.

Art. 106. The monetary system shall be regulated by law.

Art. 107. The economic laws shall aim at promoting the development of local industries.

PART IV

REVISION OF THE CONSTITUTION

Art. 108. The Chamber may, at an ordinary session and on the motion of one-third of its members or of the President of the Republic acting in this matter with the assent of the cabinet, adopt a recommendation by a majority of two-thirds of its members in favor of a revision of the Constitution. The recommendation must specify the articles which it is desired to modify. The Chamber shall decide as to the revision of the articles in question at its next ordinary session. A decision in favor of a revision of the Constitution shall require a majority of two-thirds of the members of the Chamber.

PART V

MISCELLANEOUS PROVISIONS

Art. 109. The boundaries, organization, and attributions of the administrative districts shall be the subject of a special law, which shall take into consideration the special position of some of these districts.

Art. 110. The organization of the future army shall be the subject of a special law.

Art. 111. The present laws shall continue in force until they are modified by fresh legislation.

Art. 112. The President of the Republic may, on the proposal of the cabinet, proclaim a state of siege in districts where disorder is prevalent, provided that he immediately informs the Chamber thereof. If the Chamber is not in session, the President of the Republic shall convene it forthwith.

Art. 113. The affairs of the Bedouin tribes shall be under the direction of a special administration; its powers shall be the subject of a law, in which consideration will be given to the special situation of these tribes.

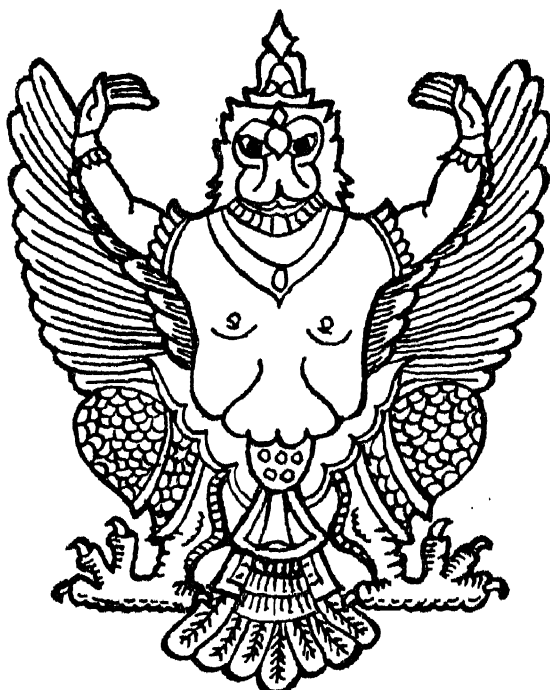
Art. 114. The Mohammedan Wakfs belong, speaking generally, exclusively to the Mohammedan community, and shall be administered by boards elected by Mohammedans. The method of electing these boards and their powers shall be dealt with in a special law.

Art. 115. The first President of the Republic shall be elected by the Chamber of Deputies in conformity with the provisions of the Constitution.

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THAILAND¹

SUMMARY

INTERNATIONAL STATUS

Thailand is a member of the United Nations. It was a member of the League of Nations and was a signatory of the Paris Pact of 1928 for the renunciation of war. It was a party to the Statute of the Permanent Court of International Justice of 1921. It is a party to the Statute of

¹ The Department of State Bulletin of June 12, 1949, carries, at page 765, the "text of a communiqué transmitted by the American Embassy at Bangkok which was officially broadcast on May 11". The communiqué reads in part as follows:

"Because of the fact that the present constitution calls the kingdom 'Prates Thai' by name, the present Government is of the opinion that for convenience sake, the name of the kingdom is to be called 'Thailand' in English and other languages and the name of the people living in the kingdom 'Thai'".

the International Court of Justice of 1945 and is subject to the compulsory jurisdiction of that Court under Article 36 of its Statute.¹ It is a member of the Postal Union and other international organizations.²

While occupied by Japanese troops, it declared war on the United States and Great Britain on January 25, 1942. On August 16, 1945, the King proclaimed that the declaration of war was null and void.

Thailand was one of the last absolute monarchies. Its national status dates from the fourteenth century. The King, of the Chakri dynasty which was founded at the end of the eighteenth century, was considered divine and had complete supreme power until June, 1932. At that time the country underwent a bloodless revolution. A temporary constitutional act of June 27, 1932, drastically curtailing the royal powers and providing for the creation of a unicameral legislative body, was followed by a definitive constitution to the same effect on December 10, 1932. Drafting of a new constitution was commenced in 1945. A provisional Constitution was promulgated on November 9, 1947. The present constitution was adopted on March 23, 1949.

FORM OF NATIONAL GOVERNMENT

The King, as the head of the nation, exercises the sovereign power in conformity with the provisions of the Constitution.³

SOURCE OF SOVEREIGN POWER

"The sovereign power emanates from the Siamese nation."⁴

RIGHTS OF THE PEOPLE

The Constitution guarantees equality before the law,⁵ freedom of religion,⁶ freedom from punishment under *ex post facto* laws,⁷ liberty of person,⁸ freedom from forced labor,⁹ inviolability of domicile,¹⁰ right of private property,¹¹ liberty of speech and press,¹² freedom of education,¹³ liberty of assembly and association,¹⁴ inviolability of communications,¹⁵ free choice of residence and occupation,¹⁶ right of petition,¹⁷ and family rights.¹⁸

LEGISLATIVE DEPARTMENT

Legislative power is vested in a parliament, composed of a senate and a house of representatives, sitting separately or jointly.¹⁹ The Senate

¹ See Yearbook of the Court, 1947-48, p. 38; also Documents & State Papers, U. S. Dept. of State, June 1948, Vol. 1, No. 3, p. 192.

² See Table I.

³ Id., Sec. 28.

⁴ Id., Sec. 32.

⁵ Id., Sec. 35.

⁶ Id., Sec. 40.

⁷ Id., Sec. 43.

⁸ Const. of 1949, Sec. 3.

⁹ Id., Sec. 29.

¹⁰ Id., Sec. 33.

¹¹ Id., Sec. 36.

¹² Id., Sec. 41.

¹³ Id., Sec. 73.

¹⁴ Id., Sec. 27.

¹⁵ Id., Sec. 31.

¹⁶ Id., Sec. 34.

¹⁷ Id., Secs. 37, 38.

¹⁸ Id., Sec. 42.

is composed of one hundred members appointed by the King for terms of six years.¹ The members of the House of Representatives are elected by direct and secret vote of the people for terms of four years.² One member is elected for each 150,000 of the population in each of the provinces.³ A bill passed by Parliament may be returned to it by the King for reconsideration but must be promulgated as law if reaffirmed by vote of not less than two-thirds of the total membership of both Houses of Parliament.⁴ The Senate and the House of Representatives in joint session have authority under special conditions to approve or disapprove the succession to the throne, to grant or withhold consent to declarations of war and ratification of treaties, to interpret the Constitution and to amend the Constitution.⁵

EXECUTIVE DEPARTMENT

Executive power is vested in the King, who exercises it through a council of ministers appointed by him and constitutionally responsible to the Parliament.⁶ The King also appoints a Privy Council of not more than nine members to advise him on "all matters concerning the exercise of his functions."⁷ The King must be of the Buddhist faith.⁸

JUDICIAL DEPARTMENT

The judicial power is vested in courts, which may be established only by law.⁹ Any court which finds a law to be contrary to the Constitution must stay proceedings in any case which involves such law and must refer its findings for decision by a Judicial Committee for the Constitution, consisting of the Speakers of the two Houses, the Presidents of the two highest courts, the director general of the department for public prosecution, and four other persons appointed by Parliament.¹⁰ The interpretation of the Constitution in matters not referred to the Judicial Committee rests with Parliament.¹¹

AREA, POPULATION, LANGUAGE

Thailand has an area of approximately 225,000 square miles and an estimated population of 18,147,000. The official language is Siamese.

¹ Const. of 1949, Secs. 82, 83.

² Id., Sec. 87.

³ Id., Secs. 9, 140, 145-149.

⁴ Id., Secs. 161, 162.

⁵ Id., Sec. 77.

⁶ Id., Sec. 13.

⁷ Id., Secs. 168, 178, 179.

⁸ Id., Secs. 86, 95.

⁹ Id., Secs. 23, 25, 153, 154, 173, 177.

¹⁰ Id., Sec. 7.

¹¹ Id., Sec. 177.

THE CONSTITUTION OF THAILAND

March 23, 1949¹

CHAPTER I

GENERAL PROVISIONS

Sec. 1. Thailand is a Kingdom, one and indivisible.

Sec. 2. Thailand is a democratic state with the King as the Head of State.

Sec. 3. The sovereign power emanates from the Thai people. The King, as the Head of State, exercises such power in conformity with the provisions of the Constitution.

Sec. 4. A person acquires and loses Thai nationality in accordance with the provisions of the law governing nationality.

CHAPTER II

THE KING

Sec. 5. The person of the King is sacred and inviolable.

Sec. 6. No person may, in any manner whatsoever, prefer a charge or bring an action against the King.

Sec. 7. The King professes the Buddhist Faith and upholds religions.

Sec. 8. The King exercises the legislative power through Parliament.

Sec. 9. The King exercises the executive power through the Council of Ministers.

Sec. 10. The King exercises the judicial power through the Courts.

Sec. 11. The King is the Head of the Thai Forces. He is the Supreme Commander of all the Armed Forces.

Sec. 12. The King may exercise His prerogative in creating titles and conferring decorations.

Sec. 13. The King selects and appoints qualified persons as members of the Privy Council which consists of the President of the Privy Council and not more than eight other Privy Councillors.

The Privy Council is charged with the duty of advising the King, upon Royal Command, on all matters concerning the exercise of His functions and with such other duties as provided in this Constitution.

Sec. 14. The selection, appointment and retirement of Privy Councillors shall be at the King's pleasure.

The appointment and retirement of the President of the Privy Council by Royal Command shall be countersigned by the Speaker of Parliament. The appointment and retirement of other Privy Councillors by Royal Command shall be countersigned by the President of the Privy Council.

Sec. 15. No person may be appointed a Privy Councillor who is a permanent Government official, Minister of State or official holding any

¹ Unofficial translation by International Translations, Bangkok; copy received from U. S. Department of State July 22, 1949; minor corrections made by editor include change of Siam to Thailand and Siamese to Thai.

other political post, member of the Senate or of the House of Representatives, member or officer of a political party, or who shows active sympathies for a political party.

Sec. 16. Before taking office a Privy Councillor must make a solemn declaration in the presence of the King in the following words:

"I (naming the person making the declaration) do solemnly pledge my honor and loyalty to His Majesty King (naming the reigning Monarch) and my service to the country and to the people. I do solemnly declare that I will uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Sec. 17. The office of a Privy Councillor is vacated upon death, resignation or Royal Command.

Sec. 18. The appointment and retirement of officials in the Royal Household as well as the King's Chief Aide-de-Camp General shall be at the King's own pleasure. Such an appointment or retirement by Royal Command shall be countersigned by a Privy Councillor.

Sec. 19. Should the King be absent from the Kingdom or for any reason whatsoever be unable to carry out His functions, He shall have appointed some person to be Regent with the approval of Parliament. Such an appointment by Royal Command shall be countersigned by the Speaker of Parliament.

Sec. 20. Should no Regent be appointed by the King under Section 19 or should the King, by reason of His being a minor or for any other reason whatsoever, be unable to appoint the Regent, the Privy Council shall nominate a person who is fit to occupy the office of Regent to Parliament for approval. Upon approval by Parliament a public notice shall be made by the Speaker of Parliament in the name of the King appointing the said person as Regent.

Sec. 21. Pending the appointment of the Regent as provided by Section 19 or Section 20 the President of the Privy Council shall temporarily act as Regent.

Should the Regent appointed under Section 19 or Section 20, for any reason whatsoever be unable to discharge his duties, the President of the Privy Council shall temporarily act in the place of the Regent.

While acting as Regent under the first paragraph or acting in the place of the Regent under paragraph two, the President of the Privy Council is debarred from discharging his duties as President of the Privy Council.

Should the President of the Privy Council, for any reason whatsoever, be unable to discharge his duties, the Privy Council shall elect one of its members to serve temporarily as President.

Sec. 22. Before taking office the Regent appointed under Section 19 or Section 20 must make a solemn declaration before the assembly of Parliament in the following words:

"I (naming the person making the declaration) do solemnly pledge my honor and loyalty to His Majesty King (naming the reigning Monarch) and my service to the country and to the people. I do solemnly declare that I will uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Sec. 23. Subject to the approval of Parliament, succession to the Throne shall be governed by the Law on Succession B.E.2467.¹

¹ A.D. 1924.

The Law on Succession B.E.2467 shall not be repealed or amended.

Sec. 24. The King becomes *sui juris* upon completing His eighteen years of age.

Sec. 25. Should there be a vacancy of the Throne, the Privy Council shall name the Heir to the Throne as provided in the Law on Succession B.E.2467 to Parliament for approval. Upon approval by Parliament the Speaker of Parliament shall invite such Heir to assume the Throne and cause Him to be publicly proclaimed as King.

Pending the proclamation of succession under this section the Regent, if appointed under Section 19 or Section 20, shall discharge his duties as Regent for the time being. If there is no such Regent, the President of the Privy Council shall temporarily act as Regent.

In the case where the President of the Privy Council acts as Regent under the foregoing paragraph, the provisions of Section 21 paragraph three and paragraph four shall apply.

CHAPTER III

RIGHTS AND LIBERTIES OF THE THAI PEOPLE

Sec. 26. All persons, irrespective of birth or religion, are under the same protection of the Constitution.

Sec. 27. All persons are equal before the law. Titles acquired by birth, by bestowal or by any other manner do not confer any privilege whatsoever.

Sec. 28. A person enjoys full liberty to profess any religion, religious sect or religious creed and to exercise the form of worship in accordance with his own belief, so far as it is not contrary to his duties as a national or to public order or good morals.

In exercising the liberty referred to in the foregoing paragraph a person is protected against any act of discrimination by the State which is prejudicial to his rights or detrimental to his due benefit for the reason that the religion, religious sect or religious creed he professes or the form of worship he exercises differs from those of others.

Sec. 29. No person may be punished for any act committed by him unless such an act be declared to be a punishable offense by the law in force at the time. No punishment for an offense may be inflicted upon a person which is heavier than the punishment provided by the law in force at the time of his committing the offense.

Sec. 30. In all criminal cases, the accused or defendant shall be presumed to be innocent.

Before the passing of a final judgment convicting a person of the commission of an offense he may not be given the treatment prescribed for a convict.

The application for bail by the accused or defendant in a criminal case shall receive consideration and excessive bail shall not be required. Refusal of bail must be based upon the principles specially provided by law and a notice of the reason therefor must be given to the accused or defendant.

A person under detention or undergoing a term of imprisonment is entitled, within reason, to receive visitors.

Sec. 31. A person enjoys full liberty of the person.

No person may, under any circumstances whatsoever, be arrested, detained or searched except by virtue of the power determined by law,

and provided always that the person subject to the arrest or search shall, without delay, be given notice of the reason for the arrest or search together with reasonable particulars. A person subject to detention is entitled to meet and consult his lawyer in private.

When a person is detained such a person himself, the public prosecutor or any other person acting in the interests of the person so detained may submit a complaint to the local Court having criminal jurisdiction that the detention is unlawful. Upon such a complaint being lodged the Court shall at once proceed to conduct an *ex parte* hearing thereof. If in its findings the complaint is substantiated the Court shall have power to order the person responsible for the detention to produce the person detained forthwith before its presence. In such a case if the person responsible for the detention cannot show to the satisfaction of the Court that the detention is lawful the Court shall order instant release of the person detained.

Sec. 32. Forced labor may be procured only by virtue of the power determined by special law for the purpose of warding off an imminent public calamity, or by virtue of the power determined by the law which permits its procurement during a time of war, state of war, state of emergency as declared by Royal Command, or during the period when martial law is declared.

Sec. 33. The dwelling of a person is inviolable.

The right belonging to a person to enjoy peaceful habitation in and peaceful possession of his dwelling is guaranteed. An entry into such a dwelling without his permission or a search thereof may be made only by virtue of the power determined by law.

Sec. 34. The right belonging to a person to private property is guaranteed. The scope and limitations of such a right are determined by law.

The right of inheritance is guaranteed. Succession in private inheritance is governed by law.

Immovable property may be expropriated only by virtue of the power determined by special law for the purpose of public utility, direct defense of the realm, or exploitation of natural resources, provided always, that just compensation be given to the owner and to persons whose right to compensation is recognized and specified in the law on expropriation of immovable property and who suffer loss thereby.

Entry upon immovable property belonging to a person without his permission for use or possession by State officials or a requisition of movable property by the State may be made only by virtue of the power determined by special law for the purpose of maintaining public safety or warding off a public calamity, provided always that just compensation be given to persons who suffer loss thereby.

Sec. 35. A person enjoys full liberty of speech, writing, printing and publication.

Such liberty may be restricted only by the provisions of special law enacted for the purpose of safeguarding the liberties of subjects, avoiding a state of emergency, maintaining public order or good morals or protecting youths against moral degeneration.

No printing establishment shall be closed down nor an order made forbidding publishing work therein to the prejudice of the liberty guaranteed by this section.

No censorship of newspapers may be imposed except during a time of war, state of war, state of emergency as declared by Royal Command or during the period when martial law is declared. Nevertheless, no such censorship may be imposed except by virtue of the power determined by the law enacted under the provisions of the second paragraph.

No money or other property shall be given by the State as subsidy to any newspapers.

Sec. 36. A person enjoys full liberty with respect to education, so far as it is not contrary to his duties as a national as provided by the laws governing education and organization of educational institutions.

Educational institutions belonging to the State as well as the municipalities must give equal facilities to all persons to receive education in accordance with their ability.

Sec. 37. A person enjoys full liberty to assemble peaceably and without arms.

Such liberty may be restricted only by the provisions of special law governing public meetings for the purpose of preserving the public right of access to public places or maintaining public order during a time of war, state of war, state of emergency as declared by Royal Command or during the period when martial law is declared.

Sec. 38. A person enjoys full liberty of association if the object thereof is not unlawful.

The formation and operation of an association is governed by law.

Sec. 39. All persons enjoy full liberty to form and operate a political party by democratic means so far as it is not inconsistent with the form of government determined by this Constitution.

The provisions of law governing associations shall not be applied to a political party.

Sec. 40. All persons enjoy full liberty of communicating with one another by post or other lawful means.

Communications between persons by post, telegraph, telephone or other means may be searched, detained or revealed only by virtue of the power determined by law.

All persons have equal right to employ the means of communication provided for public use.

Sec. 41. A person enjoys full liberty of choosing his domicile within the Kingdom as well as his occupation.

Such liberty may be restricted only by the provisions of special law for the purpose of preserving the safety of the realm, the economic stability of the nation or the public welfare or of maintaining family relations.

Thai nationals shall not be expelled from the Kingdom.

Sec. 42. A person has the right, either by himself or in conjunction with others, to present a petition under the conditions and in the manner determined by law.

Sec. 43. Family rights are guaranteed.

Sec. 44. The right of a person to sue a branch of the Government which is a juristic person responsible for acts done by any of its officials as if it were a principal or employer is guaranteed.

Sec. 45. Members of the Armed Forces and police force, other officials in the permanent service, and municipal officers enjoy the same rights and liberties accorded to citizens by this Constitution unless they are

subject to restrictions determined by law, by-laws or regulations issued by virtue of law so far as it concerns political activities, efficiency or discipline.

CHAPTER IV

DUTIES OF THE THAI PEOPLE

Sec. 46. A person has the duty to defend the country.

Sec. 47. A person has the duty to undergo military service as determined by law.

Sec. 48. A person has the duty to preserve the form of government as determined by this Constitution.

Sec. 49. A person has the duty to respect the law.

Sec. 50. In exercising his right in an election or a plebiscite a person has the duty to act in good faith and for the common interest.

Sec. 51. A person has the duty to pay taxes and duties as determined by law.

Sec. 52. A person has the duty to assist the Administration as determined by law.

Sec. 53. A person has the duty to receive primary education under the conditions and in the manner determined by law.

CHAPTER V

STATE POLICIES

Sec. 54. The provisions in this chapter are enacted as guidance for legislative and administrative work to be conducted in accordance with defined policies and do not give rise to any cause of action against the State.

Sec. 55. The State shall preserve the national independence.

Sec. 56. The State shall promote friendly relations with foreign nations and adopt the principle of reciprocity in its dealings with other nations.

Sec. 57. The State shall cooperate with other nations in maintaining international justice and world peace.

Sec. 58. Armed Forces shall be maintained in so far as necessary for the preservation of the national independence.

Sec. 59. The Armed Forces belong to the nation. They are under the supreme command of the King and are not subject to the direction of any individual, group of persons or political party.

Sec. 60. The Armed Forces may be mobilized only for the purpose of waging war or being engaged in a state of war or of quelling a rebellion. Mobilization may only be ordered by Royal Command except in the case of declaration of martial law.

The use of the Armed Forces for the purpose of giving assistance to the Administration shall be governed by law.

Sec. 61. No individual, group of persons or political party may directly or indirectly use the Armed Forces as a political instrument.

While engaged in the service no person in the Armed Forces or subject to military jurisdiction may become a member or officer of any political party or show active sympathies for any political party.

Sec. 62. Education shall have as its aim the development among the Thai people of good citizenship, sound body and health, knowledge and ability to earn their living and a democratic spirit.

Sec. 63. The State shall foster and support education.

It is the sole duty of the State to set up an educational system. All educational institutions are under the control and supervision of the State.

The State shall make arrangements to enable academic institutions to manage their own affairs within the scope defined by law.

Sec. 64. Primary education in educational institutions set up by the State as well as by the municipalities shall be provided free of charge.

The State shall assist in furnishing educational equipments to a reasonable extent.

Sec. 65. The State shall support research in arts and science.

Sec. 66. The State shall preserve the national culture, provided that no compulsory measures be taken against the will of any person.

Sec. 67. The State shall maintain and preserve places and objects of historical, cultural and artistic value and take measures to prevent the export of such objects out of the Kingdom.

Sec. 68. Private economic initiative shall be free so far as it is not inconsistent with the operation of public utilities or prejudicial to humanity, social stability or liberties of the subjects.

The State shall take measures to coordinate the operations of public utilities and private economic enterprises so as to benefit the common whole.

Monopolies and public utilities may be operated by private persons only by virtue of the power determined by law.

Sec. 69. The State shall encourage and support agricultural pursuits with a view to increasing agricultural produce both in quantity and quality. To that end it shall support cooperative movements.

Sec. 70. The State shall support private trade and production in agriculture and industry.

Sec. 71. The State shall take reasonable measures to prevent exploitation of child labor beyond its physical fitness.

Sec. 72. The State shall maintain public health and provide for maternal and child welfare.

The prevention and suppression of epidemics shall be operated by the State without charge to the people.

CHAPTER VI

LEGISLATIVE POWER

Part 1

General Provisions

Sec. 73. Parliament is composed of a Senate and a House of Representatives.

Whether Parliament shall sit separately or jointly is determined by the provisions of this Constitution.

Sec. 74. The Speaker of the Senate is the Speaker of Parliament. The Speaker of the House of Representatives is the Vice-Speaker of Parliament.

It is the duty of the Speaker of Parliament to conduct the proceedings in Parliament sitting jointly in accordance with the Rules of Procedure and to carry out other duties entrusted to him by the provisions of this Constitution.

The Vice-Speaker shall act in the place of the Speaker when the latter is, for any reason, unable to perform his duties.

Sec. 75. Bills can be promulgated as law only by and with the advice and consent of Parliament.

Sec. 76. After a Bill has been passed by Parliament, the President of the Council of Ministers shall submit it to the King for signature, and it shall come into force after its publication in the Government Gazette.

Sec. 77. If the King disapproves of a Bill and the Bill is or is not returned to Parliament within ninety days, Parliament shall reconsider the Bill. If Parliament reaffirms the Bill with a majority vote of not less than two-thirds of the total membership of both Houses, the President of the Council of Ministers shall resubmit the Bill to the King for signature. If the King does not return the Bill with His signature within thirty days, the Bill shall be published in the Government Gazette and come into force as if the King had signed it.

Sec. 78. No person may be a senator and a member of the House of Representatives at the same time.

Sec. 79. No person may be a senator or a member of the House of Representatives who is a permanent Government official.

Sec. 80. Senators and members of the House of Representatives

(1) Shall not hold or remain in a remunerative post or office under the State, a branch of the Government or any service under the direction and control of the State, excluding the post of a Minister of State or other political official, the post required by law to be filled by a Minister of State, the post filled by the appointment of Parliament, the Senate or the House of Representatives and the post or office occupied by a professor or lecturer in a university or other academic institution;

(2) Shall not act as manager, director, adviser, agent or employee of a partnership or company in which the State or a branch of the Government invests in or holds more than fifty per centum of the total capital or shares;

(3) Shall not directly or indirectly acquire or hold a concession from the State or a branch of the Government or be a party to a contract which is in the nature of a monopoly with the State or a branch of the Government;

(4) Shall not receive money or any benefit from the State or a branch of the Government over and above what is paid or granted by the State or the branch of Government to other persons in the ordinary course of business, excluding money and benefit received in the capacity of a senator or a member of the House of Representatives as well as money and benefit received as compensation for acting in such a capacity.

The provisions of this section shall not apply to senators and members of the House of Representatives receiving annuities, compensations, pensions, grants to members of the Royal Family or such other payments made under obligation as specified in the yearly Budget. Nor shall they apply to senators and members of the House of Representatives who are appointed to or serve in a committee or commission and receive compensation at the rate fixed by law or Royal Decree.

Sec. 81. Five or more senators or members of the House of Representatives may sign a complaint to the Speaker of their respective House asserting that any one of their number has become disqualified under the provisions of this Constitution. The Speaker with whom the complaint is lodged shall refer it to the Judicial Committee for the Constitution for decision.

The decision of the Judicial Committee for the Constitution shall be final and the said decision shall be communicated by the Committee to the Speaker with whom the complaint was lodged.

Acts done by a member in the course of his duty before notice of the decision by the Judicial Committee for the Constitution disqualifying him was received by the Speaker of his House are not affected by the said decision.

Part 2

The Senate

Sec. 82. The Senate is composed of one hundred members appointed by the King from among persons having electoral right who are not less than forty years of age and whom the King considers qualified by being experts or men of affairs capable of giving their service in the interests of the realm.

The appointment of a senator by Royal Command shall be countersigned by the President of the Privy Council.

Sec. 83. Membership in the Senate shall last for the duration of six years counting from the day of appointment by Royal Command. For the initial duration only, one-half of the members shall, at the termination of a period of three years, be replaced by new members and retire by the method of drawing lots.

The King may exercise His prerogative in reappointing outgoing members.

Sec. 84. Membership in the Senate terminates upon

- (1) Retirement by rotation;
- (2) Death;
- (3) Resignation;
- (4) Becoming disqualified under Section 80;
- (5) Becoming disfranchised under Section 90 (1), (2), (3) or (5) or Section 93 (1), (2) or (3);
- (6) Being sentenced by a judgment of the Court to a term of imprisonment, except for an offense committed by negligence, petty offense or offense punishable like a petty offense.

Sec. 85. Upon a vacancy of membership in the Senate for any other reason than through retirement by rotation, the King shall have appointed a person qualified under Section 82 to fill it. The new member thus appointed may sit only for the remainder of the term of the retiring member.

In appointing senators under this section the provisions of Section 82 paragraph two shall apply.

Part 3

The House of Representatives

Sec. 86. The House of Representatives is composed of members elected by the people in a number and in accordance with the rule determined by Section 87.

The election of members of the House of Representatives shall be decided by a direct and secret ballot under a system of combining the constituencies within the Changwad area.

Sec. 87. One member shall be elected in each Changwad for one hundred and fifty thousand population, the population in such a Changwad

being calculated in accordance with the latest census. If the population in a Changwad does not amount to one hundred and fifty thousand, one member shall, nevertheless, be elected in such a Changwad. If the population in a Changwad exceeds one hundred and fifty thousand, an additional member shall be elected in such a Changwad for every one hundred and fifty thousand of the population. A fraction of one hundred and fifty thousand population amounting to seventy-five thousand or more shall be counted as one hundred and fifty thousand.

Sec. 88. Persons who are qualified under Section 89 and are not disfranchised under Section 90 are entitled to vote in an election.

Sec. 89. A person is entitled to vote in an election when he is qualified as follows:

- (1) Being a Thai national by law, provided that a Thai national whose father is an alien and a naturalized Thai subject shall, in addition, have other qualifications as provided by the law governing the election of members of the House of Representatives;

- (2) Being of twenty years of age or more on the election day.

Sec. 90. A person who is under any of the following disabilities on the election day shall be disfranchised;

- (1) Being a person of unsound mind or mentally infirm;

- (2) Being deaf and dumb and incapable of reading and writing;

- (3) Being a priest, novice, monk or clergyman;

- (4) Being under detention by a warrant of the Court;

- (5) Being a person under disfranchisement by a judgment of the Court.

Sec. 91. Persons having electoral right under Section 88 and qualified under Section 92 who are not disfranchised under Section 93 are entitled to stand as candidates in an election of members of the House of Representatives. However, so long as a person placed under detention has not been sentenced to a term of imprisonment by a judgment of the Court, the provisions of Section 90 (4) shall not apply.

Sec. 92. A candidate in an election must have the following qualifications:

- (1) Being not less than thirty years of age on the election day;

- (2) Having passed the standard of primary education set by the Ministry of Education or being certified by the Ministry to have a knowledge equivalent thereto.

Sec. 93. A person who is under any of the following disabilities may not stand for an election:

- (1) Being a drug addict;

- (2) Being blind;

- (3) Being an undischarged bankrupt;

- (4) Having been sentenced to a term of imprisonment by a judgment of the Court for two years or more, except for an offense committed by negligence, when a period of five years has not expired from the day of completing such a term of imprisonment to the day of election;

- (5) Being a permanent government official;

- (6) Having served as a permanent Government official, when a period of one year has not expired from the day of retirement to the day of election, excluding persons placed under compulsory service by the provisions of law.

Sec. 94. Subject to the provisions of this Constitution the rule and procedure of election shall be determined by the law governing the election of members of the House of Representatives.

Sec. 95. The House of Representatives shall last for the duration of four years counting from the election day in the general election.

Sec. 96. At the expiry of the duration the King shall have issued a Royal Decree ordering new members of the House of Representatives to be returned by a general election which shall be held within a period of sixty days from the said expiry. The election shall take place on the same day throughout the Kingdom.

Sec. 97. The King may exercise His prerogatives in dissolving the House of Representatives so that new members may be returned by the people in an election.

The dissolution shall be ordered by a Royal Decree in which the date of a general election shall be fixed within a period of ninety days. The election shall take place on the same day throughout the Kingdom.

The House of Representatives may be dissolved only once under the same circumstances.

Sec. 98. Membership in the House of Representatives begins on and from the day of election.

Sec. 99. Membership in the House of Representatives terminates upon:

- (1) The expiry of the duration of the House or the dissolution of the House;
- (2) Death;
- (3) Resignation;
- (4) Becoming disqualified under Section 80;
- (5) Becoming disfranchised under Section 90 (1), (2), (3) or (5) or Section 93 (1), (2) or (3);
- (6) Being sentenced by a judgment of the Court to a term of imprisonment, except for an offense committed by negligence, petty offense or offense punishable like a petty offense.

Sec. 100. If a vacancy occurs in the membership for any reason other than the expiry of the duration of the House of Representatives or the dissolution of the House, a new member shall be returned to fill the vacancy by an election held within a period of ninety days, unless the remainder of the duration of the House does not amount to one hundred and eighty days.

The new member so returned may sit only for the remainder of the duration of the House of Representatives.

Part 4

Provisions Applicable to Both Houses

Sec. 101. Senators and members of the House of Representatives are representatives of the Thai people. They are not bound by any imperative mandate and must for the common interest of the Thai people perform their duties in accordance with the honest dictates of their conscience.

Sec. 102. Before taking office senators and members of the House of Representatives must make a solemn declaration before the assembly of their respective House in the following words:

"I (naming the person making the declaration) do solemnly declare that I will perform my duties for the common interest of the Thai people in accordance with the dictates of my conscience. I will uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Sec. 103. The Senate and the House of Representatives are each presided by a Speaker and a Vice-Speaker who are appointed by the King from the members of the respective Houses in accordance with the resolutions of such Houses.

Sec. 104. The Speaker and Vice-Speaker of the Senate remain in office until the day preceding the day appointed for the election of a new Speaker and Vice-Speaker, which must be conducted on every occasion of the retirement of one-half the membership.

The Speaker and Vice-Speaker of the House of Representatives remain in office throughout the duration of the House or until the House is dissolved.

Before the termination of their terms of office as provided in the two preceding paragraphs the Speakers and Vice-Speakers of both Houses vacate their offices upon

- (1) Becoming disqualified as member of their respective Houses;
- (2) Resignation from their office;
- (3) Being appointed Minister of State or to other political post;
- (4) Being sentenced by a judgment of the Court to a term of imprisonment.

Sec. 105. It is the duty of the Speaker of either House to conduct its proceedings in accordance with its Rules of Procedure. The Vice-Speaker shall act in the place of the Speaker when the latter is absent or unable to perform his duties.

Sec. 106. Should both the Speaker and the Vice-Speaker be absent at any sitting of either House, the members shall elect one of their number to preside at that sitting.

Sec. 107. At any sitting of either House the presence of not less than two-thirds of the total membership of such House is required to form a quorum.

Sec. 108. Unless specially provided in this Constitution all questions shall be decided by a majority of votes.

Each member has one vote. In case of a tie the presiding officer shall have a casting vote in addition to the vote to which he is entitled.

Sec. 109. Words uttered by members at any sitting of either House or at any joint sitting of Parliament, whether in making a statement of facts or expressing an opinion, and votes cast by members are absolutely privileged, for which no action or charge may be brought against them in any manner whatsoever.

This privilege extends to the printing and publication of the minutes of the sitting by authority of either House and to statements of fact and expressions of opinion made at the sitting by persons invited by either House to do so.

Sec. 110. The sessions of both Houses begin and end at the same time, simultaneously with the session of Parliament.

Sec. 111. The Senate may not sit during the dissolution of the House of Representatives.

Sec. 112. Parliament shall hold one or more ordinary sessions every year in accordance with the decision to be taken by the House of Representatives. The first ordinary session must be called not later than thirty days after the election of members.

The opening date of an ordinary session to be called yearly shall be fixed by the House of Representatives.

Sec. 113. An ordinary session shall last for ninety days, but the period may be extended by the King.

The King may prorogue the session referred to in the foregoing paragraph.

Sec. 114. The King convokes Parliament. He opens and closes the sessions of Parliament.

At the opening of Parliament the King Himself may be present to perform the ceremony or may command the Heir to the Throne, if he is *sui juris*, or any other person to perform the ceremony in His place.

Sec. 115. Whenever the interests of the State so require, the King may call an extraordinary session of Parliament.

Sec. 116. Senators and members of the House of Representatives jointly or members of either House separately numbering no less than one-third of the total membership of both Houses are entitled to sign a petition to the King requesting Him to call an extraordinary session of Parliament.

If the petition referred to in the foregoing paragraph is signed by members of either House separately, it shall be lodged with the Speaker of the respective Houses. A joint petition shall be lodged with the Speaker of Parliament.

The Speaker with whom the petition is lodged shall submit it to the King and countersign the Royal Command.

Sec. 117. The convocation, prolongation and prorogation of Parliament shall be commanded by Royal Decree.

Sec. 118. No member of the Senate or the House of Representatives may, during the session, be placed under arrest or detention or summoned by a warrant to answer a criminal charge before an investigation unless the permission of the House of which he is member be obtained or he be arrested *in flagrante delicto*.

The arrest of a member of either House *in flagrante delicto* shall be reported at once to the Speaker of the House of which he is a member and the Speaker may order his release from detention.

Sec. 119. No criminal action brought against a member of either House, whether during the session or before the opening thereof, may be tried by the Court during the session unless the permission of the House of which he is a member be obtained. In any case, the proceedings of the Court must not interfere with his attendance at the sitting.

The proceedings taken by the Court before the issuance of membership plea are valid.

Sec. 120. If a member of either House was placed under detention pending a criminal investigation or trial before the opening of the session, the investigator or the Court, as the case may be, shall, at the opening of the session, order his instant release at the request of the House of which he is a member.

Such order of release shall be effective from the day of release till the last day of the session.

Sec. 121. A Bill may be initiated only by the Council of Ministers or a member of the House of Representatives. However, a money Bill initiated by a member of the House of Representatives must be endorsed by the President of the Council of Ministers.

A money Bill means a Bill containing any or all of the following matters, namely the imposition, repeal, reduction, modification, remission of

taxes or duties or the issuance of enforceable regulations relating thereto, the appropriation, supply, maintenance or expenditure of State funds, the contracting of loans, guarantee or redemption of loans and a Bill dealing with currency.

In case of doubt, the power is vested in the Speaker of the House of Representatives to decide whether or not a Bill is a money Bill.

Sec. 122. All Bills shall first be presented to the House of Representatives. After they are passed by the House of Representatives the Bills shall be presented to the Senate who shall complete their readings within a period of sixty days, with the exception of money Bills the reading of which must be completed by the Senate within a period of thirty days. However, such periods of time may be extended by resolution of the House of Representatives in special cases.

The periods of time referred to in the foregoing paragraph mean the periods during session. They are counted from the day when the Bills reach the Senate in the course of transmission.

If the readings of the Bills in the Senate are not completed within the periods referred to in the first paragraph, the Senate shall be deemed to have approved of the Bills.

Sec. 123. If upon completing the readings of a Bill

(1) The Senate approves of it without amendments, proceedings shall be taken under Section 76;

(2) The Senate disapproves of it, the passing of the Bill shall be withheld and the Bill shall be returned to the House of Representatives;

(3) The Senate amends it, the amended Bill shall be returned to the House of Representatives. In this case each House shall appoint its own members or other persons in an equal number fixed by the House of Representatives to a Joint Committee. The Joint Committee shall examine the Bill in question and return the Bill to both Houses with its report. If both Houses approve of the Bill as returned by the Joint Committee, proceedings shall be taken under Section 76. If the Bill as returned is disapproved by either House its passing shall be withheld.

The Joint Committee shall have power to summon any person to appear before its meeting to examine the Bill and make statements of fact or expressions of opinion. The privilege provided in Section 109 shall be extended to persons summoned to appear under this section.

In holding the examination of a Bill the presence of not less than one-half of the total membership of the Joint Committee is required to form a quorum and the Rules of Procedure for the Senate governing committees shall apply by analogy.

Sec. 124. A Bill, the passing of which is withheld under Section 123, may be re-examined by the House of Representatives after the lapse of one year counting from the day of its being returned to the House of Representatives by the Senate. In such a case, if the House of Representatives reaffirms the Bill in its original draft or approves of the Bill as returned by the Joint Committee with a majority vote of more than one-half the total membership of the House, it shall be deemed that Parliament has approved of the Bill and proceedings shall be taken under Section 76.

If the Bill being withheld is a money Bill, the House of Representatives may forthwith proceed to re-examine it. In such a case, if the House of Representatives reaffirms the Bill in its original draft or approves of

the Bill as returned by the Joint Committee with a majority vote of more than one-half the total membership of the House, it shall be deemed that Parliament has approved of the Bill and proceedings shall be taken under Section 76.

Sec. 125. All Bills left pending approval by Parliament as well as Bills disapproved by the King or not returned by the King within ninety days shall lapse at the expiry of the duration of the House of Representatives or upon the dissolution of the House.

Sec. 126. The annual budget of the State shall be presented in the form of an Act. If the Act is not passed in time for the new year, the Budget Act of the preceding year shall remain in force for the time being.

Sec. 127. Expenditure of State funds may be made only on items sanctioned by the law governing budget. However, in cases of urgency expenditure may be made, provided that it conforms to the rule and procedure laid down by law and ratification by Parliament be obtained on the first occasion.

The ratification by Parliament may be made in the form of a special Act or included in an Act transferring budgetary funds, supplementary Budget Act or the Budget Act for the following year.

Sec. 128. The power is vested in the Senate and the House of Representatives to supervise the administration of State affairs in accordance with the provisions of this Constitution.

Sec. 129. At the sitting of either House every member is entitled to interpellate a Minister of State on all matters within the scope of his authority. However, if he considers that for reasons of public safety or in the vital interests of the State the matter should not be divulged, the Minister may withhold his answer.

Sec. 130. Members of either House numbering not less than one-fifth of the total membership of the respective Houses may jointly sign a motion to open a general debate in their House so as to give the Council of Ministers an opportunity to state facts or express its opinion on any question involving the administration of State affairs.

The motion referred to in the foregoing paragraph shall be lodged with the Speaker of the House to which the members making the motion belong. The Speaker shall give notice of the motion to the President of the Council of Ministers and arrange for the general debate to take place not later than thirty days counting from the day of giving such notice to the President of the Council of Ministers. However, if the Council of Ministers considers that, for reasons of public safety or in the vital interests of the State, the matter should not be divulged, it is entitled to suppress the motion for general debate.

In a general debate conducted under this section no resolution may be passed by the House on any question forming the subject matter of the debate.

Sec. 131. Members of the House of Representatives numbering not less than one-third of the total membership of the House may jointly sign a motion to open a general debate to vote non-confidence in Ministers individually or collectively.

If the general debate in the House of Representatives comes to an end without a resolution being passed to proceed to other business on the agenda, the Speaker of the House shall give notice thereof to the Speaker of the Senate. In such a case the Senate may open a general debate on

the same subject matters and forward its observations to the House of Representatives for consideration.

The motion of non-confidence or confidence shall be put to vote by the House of Representatives only after notice of the debate in the Senate as provided in the preceding paragraph has been received.

Sec. 132. If questions concerning the administration of State affairs arise in respect of which the Council of Ministers considers it advisable to hear the views of the members of both Houses, the President of the Council of Ministers will give notice to the Speaker of Parliament with the request that a general debate be opened in a joint sitting of Parliament. In such a case no resolution may be passed by Parliament on the subject matter of the debate.

Sec. 133. The sittings of both Houses are open to the public subject to the Rules of Procedure of either House. However, either House may sit in camera at the request of the Council of Ministers or of not less than twenty-five of its members.

Sec. 134. Either House may appoint its members to an ordinary committee. It may appoint its members or other persons to a special committee to inquire into any matter within the scope of its authority and report its findings to the House. The Committee so appointed may summon any person to appear before its meeting and to state facts or express opinions on the subject under inquiry.

The privilege provided in Section 109 shall be extended to persons summoned to appear under this Section.

Sec. 135. At the meetings of the Committee the presence of not less than one-half of its total membership is required to form a quorum.

Sec. 136. Either House shall have power to lay down Rules of Procedure for the purpose of regulating the presentation at its sitting of Bills and motions, the conduct of its proceedings and other matters, in pursuance of the provisions of this Constitution.

Part 5

Joint Sitting of Parliament

Sec. 137. Joint sitting of Parliament shall take place in the following cases:

- (1) Approval of the appointment of the Regent under Section 19 and Section 20;
- (2) The Regent's making a solemn declaration before the assembly of Parliament under Section 22;
- (3) Approval of succession to the Throne under Section 25;
- (4) Re-examination of a Bill under Section 77;
- (5) The opening of Parliament under Section 114;
- (6) The opening of a general debate under Section 132;
- (7) Giving consent to a declaration of war under Section 153;
- (8) Ratification of a treaty under Section 154;
- (9) Appointment of members to the Judicial Committee for the Constitution under Section 168;
- (10) Amendment of the Constitution under Section 173;
- (11) Interpretation of the Constitution under Section 177.

Sec. 138. The Rules of Procedure for the Senate shall apply by analogy to joint sittings of Parliament.

Sec. 139. The provisions applicable to both Houses shall apply by analogy to joint sittings of Parliament.

CHAPTER VII

THE EXECUTIVE POWER

Sec. 140. The King appoints the President of the Council of Ministers and not less than fifteen but not more than twenty-five other Ministers of State who shall thus form a Council of Ministers, charged with the duty of administering the affairs of State.

The appointment of the President of the Council of Ministers by Royal Command shall be countersigned by the Speaker of Parliament.

Sec. 141. Before taking office every Minister of the State must make a solemn declaration in the presence of the King in the following words:

"I (naming the person making the solemn declaration) pledge my honor and loyalty to His Majesty King (naming the reigning Monarch) and my service to the country and to the people. I do solemnly declare that I will uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Sec. 142. No permanent Government official may serve as Minister of State.

Sec. 143. The acts of disqualification for members of the Senate and the House of Representatives provided in Section 80 apply as well to Ministers of State. Moreover, no Minister of State may act as manager, director, adviser, agent or employee of any person, partnership, company or corporation operating for profit.

Sec. 144. Ministers of State who are not members of either House may attend and make statements of fact or expressions of opinion at its sitting or at a joint sitting of Parliament, but they are not entitled to vote.

The privilege provided in Section 109 shall be extended by analogy.

Sec. 145. In pursuing its policies for the administration of State affairs the Council of Ministers must have the confidence of the House of Representatives.

A Minister of State who is put in charge of a Ministry shall be responsible to Parliament for the administration of such Ministry. All Ministers of State, with or without portfolio, are collectively responsible to Parliament for the conduct of general policies of the Council of Ministers.

Sec. 146. In assuming office the Council of Ministers must state its policies before the House of Representatives and the Senate respectively. The vote of confidence or non-confidence in the Council of Ministers shall be taken by the House of Representatives only after the Council has stated its policies before the Senate.

After the Council of Ministers has stated its policies before the Senate, the latter may forward its observations to the House of Representatives for consideration.

Sec. 147. While the Council of Ministers is administering the affairs of State after having gained the confidence of the House of Representatives, if there arise any circumstances which, in the opinion of the Council of Ministers, call for the confirmation of such confidence by the House of Representatives, the provisions of Section 146 shall apply by analogy.

Sec. 148. The Council of Ministers collectively vacates its office upon:

- (1) The passing of a vote of non-confidence by the House of Representatives under Section 146 or Section 147;
- (2) The passing of a vote of non-confidence by the House of Representatives under Section 131;
- (3) The expiry of the duration or dissolution of the House of Representatives which passed the vote of confidence under Section 146;
- (4) Collective resignation;
- (5) The President of the Council of Ministers vacating his office under Section 149.

The retiring Council must remain in office and carry on the administration until the appointment of a new Council of Ministers.

Sec. 149. A Minister of State individually vacates his office upon:

- (1) Death;
- (2) Resignation;
- (3) Becoming disfranchised under Section 90 (1), (2), (3) or (5) or Section 93 (1), (2) or (3);
- (4) Being sentenced to a term of imprisonment by a judgment of the Court;
- (5) Becoming disqualified under Section 143;
- (6) Being the Minister against whom the House of Representatives has passed a vote of non-confidence under Section 131.

Sec. 150. In a case of emergency when there is an urgent need to maintain public safety or to ward off a public calamity and Parliament cannot be summoned in time, or when such a case occurs during a dissolution of the House of Representatives, the King may issue an Emergency Decree which shall provisionally have the force of an Act.

Such a Decree shall be presented to Parliament at its following session. If Parliament gives its ratification, the Decree shall become law. If Parliament withholds its ratification, the Decree shall lapse without prejudice, however, to any act done while it was still in force.

The ratification and withholding thereof shall be done in the form of an Act.

Sec. 151. While Parliament is in session, if it is necessary to pass a law dealing with taxes, duties or currency which in the interests of the State must receive an urgent and secret deliberation, the King may issue an Emergency Decree which shall provisionally have the force of an Act.

The Decree issued under the foregoing paragraph shall be presented to Parliament within two days following its publication in the Government Gazette and the provisions of Section 150 paragraphs two and three shall apply by analogy.

Sec. 152. The King may exercise His prerogative in declaring martial law in accordance with the circumstances and manner determined by the law governing the declaration of martial law.

When necessary in case of emergency martial law may be declared locally by the military authorities in accordance with the law governing the declaration of martial law.

Sec. 153. With the previous consent of Parliament the King may exercise His prerogative in declaring war.

The resolution of Parliament giving consent to the declaration of war must be supported by a majority vote of not less than two-thirds of the total membership of both Houses.

Sec. 154. The King may exercise His prerogative in concluding Treaties of Peace or other treaties with foreign states.

Treaties which provide for a change in the Thai territories or require the promulgation of an Act to make them enforceable must receive the approval of Parliament.

Sec. 155. The King may exercise His prerogative in granting pardon.

Sec. 156. The King may exercise His prerogative in withdrawing titles and reclaiming decorations.

Sec. 157. The King may exercise His prerogative in issuing Royal Decrees which are not in conflict with law.

Sec. 158. The King appoints and dismisses military and civil officials of the rank of Under-Secretary and Director-General as well as other officials of equal rank.

Sec. 159. The qualifications, installation, appointment, dismissal and punishment of officials shall be determined by law.

Sec. 160. Subject to the provisions of Sections 14, 18, 19, 82, 85, 116, 140 and 174 every law, Royal Rescript and Royal Command relating to the affairs of State shall be countersigned by a Minister of State.

CHAPTER VIII

JUDICIAL POWER

Sec. 161. The judicial power is vested in the Courts exclusively and shall be exercised by the Courts in accordance with the law and in the name of the King.

Sec. 162. Courts may be established only by an Act.

Sec. 163. No new Court may be established to try any special case or action in lieu of the Courts established by law which have jurisdiction over such a case or action.

Sec. 164. No law may be passed which changes or modifies the existing constitution of the Courts or law of procedure for the purpose of being applied to any special case.

Sec. 165. The judges are independent in conducting trials and giving judgments in accordance with the law.

Sec. 166. The King appoints, transfers and dismisses judges.

Sec. 167. The appointment, transfer and dismissal of judges must be approved by the judicial committee appointed under the law governing judicial service before their submission to the King.

The promotion of judges in rank and salary must receive the approval of the judicial committee appointed under the law governing judicial service.

CHAPTER IX

THE JUDICIAL COMMITTEE FOR THE CONSTITUTION

Sec. 168. The Judicial Committee for the Constitution is composed of the Speaker of the Senate, the Speaker of the House of Representatives, the President of the Dika Court, the Chief Justice of the Court of Appeal, the Director-General of the Department for Public Prosecution and four other persons appointed by Parliament out of persons who are qualified in the law.

The Speaker of the Senate is the President of the Judicial Committee for the Constitution.

Sec. 169. The Judicial Committee for the Constitution is charged with the duties provided in this Constitution.

The proceedings of the Judicial Committee for the Constitution shall be determined by the law relating thereto.

Sec. 170. At every general election new members of the Judicial Committee for the Constitution shall be appointed by Parliament from qualified persons within a period of thirty days from the opening of the first session.

The period of time referred to in the foregoing paragraph means the period during session.

In appointing new members to the Judicial Committee for the Constitution under paragraph one, Parliament may reappoint the outgoing members.

Sec. 171. Members of the Judicial Committee for the Constitution who are appointed by Parliament vacate their office upon:

- (1) The opening of the first session of Parliament after a general election;
- (2) Death;
- (3) Resignation;
- (4) Becoming disfranchised under Section 90 (1), (2), (3) or (5) or Section 93 (1), (2) or (3);
- (5) Being sentenced to a term of imprisonment by a judgment of the Court.

Sec. 172. If a vacancy occurs in the membership of the Judicial Committee for the Constitution for any reason other than retirement at the opening of the first session of Parliament after a general election, Parliament shall make a new appointment to fill the vacancy within a period of thirty days.

The period of time referred to in the foregoing paragraph means the period during session.

CHAPTER X

AMENDMENT OF THE CONSTITUTION

Sec. 173. This Constitution may be amended only under the following conditions:

- (1) A motion for amendment is introduced by the Council of Ministers or by members of the Senate and of the House of Representatives jointly or members of either House numbering not less than one-fifth of the total membership of both Houses;
- (2) The motion for amendment is examined by Parliament in three readings;
- (3) At the first reading where votes are taken by roll call, the amendment is accepted in principle by a majority vote of not less than one-third of the total membership of both Houses;
- (4) At the second reading the amendment is passed section by section by a majority vote;
- (5) The third reading takes place after the lapse of fifteen days from the conclusion of the second reading;
- (6) At the third and last reading where votes are taken by roll call, the amendment to the Constitution is adopted by a majority vote of not less than two-thirds of the total membership of both Houses;
- (7) After the various resolutions have been passed in compliance with the foregoing conditions the amendment is submitted to the King and the provisions of Section 76 and Section 77 shall apply by analogy.

Sec. 174. If the King considers that the constitutional amendment submitted to Him under Section 173 operates to the prejudice of vital interests of the State or the people and that the people should be consulted, the King may exercise His prerogative in referring such a constitutional amendment to a plebiscite.

In conducting the plebiscite the King shall have issued a Royal Decree within a period of ninety days from the date of the constitutional amendment being submitted to Him. A polling date will be fixed in the Royal Decree within ninety days and the polling shall take place on the same day throughout the Kingdom. The President of the Privy Council shall countersign the Royal Command.

When the King exercises this prerogative under this section the provisions of Section 173 (7) shall not apply.

Sec. 175. If the result of polling under Section 174 shows that the majority of the people decides in favor of the constitutional amendment, the King shall have signed the amendment within a period of thirty days counting from the day of publicly declaring the result of polling and the amendment shall become enforceable upon its publication in the Government Gazette.

If the polling fails to show a majority in favor of the constitutional amendment, such an amendment shall lapse.

Sec. 176. Persons entitled to vote in an election of members of the House of Representatives may cast their vote at a plebiscite.

The rules and procedure for conducting a plebiscite shall be determined by the law relating thereto.

CHAPTER XI

FINAL PROVISIONS

Sec. 177. Subject to the provisions of Section 179 the power to interpret the Constitution is vested in Parliament, so far as such a constitutional interpretation relates to matters within the scope of authority of the Senate, the House of Representatives, or both Houses sitting jointly. In such a case the interpretation by Parliament is final.

In interpreting the Constitution under the foregoing paragraph the presence of not less than one-half the total membership of both Houses is required to form a quorum.

Sec. 178. Any provisions of law which are contrary to or inconsistent with this Constitution are unenforceable.

Sec. 179. If in applying the provisions of a law to any case the Court finds that such provisions come under Section 178, the Court shall stay its proceedings in such a case and refer its findings through the proper channel for decision by the Judicial Committee for the Constitution.

The decision by the Judicial Committee for the Constitution shall be final and enforceable in all cases without prejudice to previous judgments of the Courts which have become final.

The decision by the Judicial Committee for the Constitution shall be published in the Government Gazette.

TRANSITORY PROVISIONS

Sec. 180. At the initial stage, if an appointment of the Regent is required in pursuance of this Constitution, the President of the Council of

Regency appointed under the Provisional Constitution of the Kingdom of Thailand shall act as the Regent until the appointment of Regent is made under this Constitution.

Sec. 181. Senators appointed under the Provisional Constitution of the Kingdom of Thailand shall become senators under this Constitution and the duration of their membership in the Senate shall run from the date of their appointment by Royal Command.

Sec. 182. Members of the House of Representatives elected under the Provisional Constitution of the Kingdom of Thailand shall become members of the House of Representatives under this Constitution and the duration of the House shall run from the date of general election by which they were returned to Parliament.

Before the members to be elected under Section 184 take their seats, the House of Representatives shall be composed of members referred to in the foregoing paragraph.

Sec. 183. Within a period of thirty days from the date of enforcing this Constitution the provisions of Section 80 shall not apply to members of the Senate and of the House of Representatives. This exemption applies only to acts of disqualification done before the date of enforcing this Constitution.

Sec. 184. Within a period of ninety days after the date of enforcing this Constitution additional members shall be returned by election to fill the seats in the House of Representatives provided in Section 87.

Sec. 185. Subject to the provisions of this Constitution the election of additional members of the House of Representatives under Section 184 shall be governed by the Electoral Law B.E.2475 Amendment Act (No. 3) B.E.2479 and the Electoral Law Amendment Act B.E.2490, excepting the disqualifying Section 17 (1) of the Electoral Law B.E.2475 Amendment Act (No. 3) B.E.2479.¹

Should an election of members of the House of Representatives be held before the passing of an electoral law under this Constitution, the provisions of the foregoing paragraph shall apply.

Sec. 186. The Council of Ministers appointed under the Provisional Constitution of the Kingdom of Thailand shall provisionally remain in office and carry on the administration of State affairs in accordance with its policies as stated to Parliament until its retirement at the time when the new members of the House of Representatives to be elected under Section 184 take their seats. The provisions of Section 148 paragraph two shall apply.

Sec. 187. Within a period of thirty days from the date of enforcing this Constitution, the provisions of Section 143 shall not apply to Ministers of State. This exemption applies only to acts of disqualification done before the date of enforcing this Constitution.

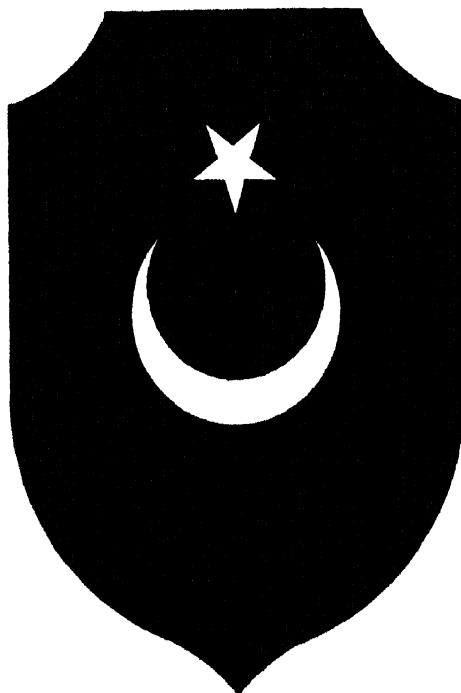
Sec. 188. At the initial stage, Parliament shall appoint members to the Judicial Committee for the Constitution under Section 168 within a period of thirty days from the opening of its first session after the enforcing of this Constitution.

The period of time referred to in the preceding paragraph means the period during session.

¹ The A.D. years corresponding to B.E.2475, 2479 and 2490 are 1932, 1936 and 1947.

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TURKEY

SUMMARY

INTERNATIONAL STATUS

Turkey is a member of the United Nations. It signed the Charter at San Francisco on June 26, 1945, and deposited its ratification September 28, 1945. It also signed the United Nations Declaration of January 1, 1942.

It was a member of the League of Nations and signed the Paris Pact of 1928. It signed but did not ratify the Statute of the Permanent Court of International Justice of 1921.¹ It has made a declaration under Article 36 of the Statute of the International Court of Justice of 1945,

¹ It accepted, without ratification, the optional clause (Article 36).

accepting the compulsory jurisdiction of the new court under Article 36 of its Statute.¹ It is a member of the Postal Union and numerous other international organizations.²

Turkey, as the Ottoman Empire from the fourteenth century until 1914, included European Turkey, Anatolia, Arabia, Syria, Palestine, Mesopotamia, Armenia, Kurdistan, and groups of islands in the Aegean Sea. Until 1876 it was an absolute monarchy. Unrest and uprisings occurred in the Balkans resulting in the interference of foreign powers. The Constitution of 1876 was granted, establishing a more liberal régime. It was, however, effective for only two years, and whatever restrictions were placed on the Sultan's power during the following thirty years of Abdul Hamid's "silent order" were of an international nature. The Treaty of Berlin of 1878 imposed certain rules in favor of the Armenians and freedom of religion and guaranteed a measure of autonomy to some of the provinces.

In 1909 the revolutionary Young Turk movement caused the restoration of the Constitution of 1876. Projects of reform were blocked, however, and until the seizure of power by the Grand National Assembly, led by Mustapha Kemal Pasha, in 1920, Turkey was ruled by the Committee of Union and Progress. During World War I, when it sided with the Central Powers, it was governed by the triumvirate of Enver-Talaat-Djemal.

Under the Treaty of Lausanne, of July 24, 1923, which replaced the abortive Treaty of Sevres, of August 20, 1920, various divisions of Turkish territory occurred and a neutral zone was set up on either side of the Straits of the Dardanelles and the Bosphorus. The refortification of the straits was authorized in the Montreux Convention of July 18, 1936.

Turkey declared war on Germany and Japan on February 23, 1945, effective March 1, 1945.

FORM OF NATIONAL GOVERNMENT

Turkey has a written constitution promulgated January 10, 1945. It states that the Turkish State is a republic and is "republican, nationalist, populist, étatist, secular and revolutionary."³

SOURCE OF SOVEREIGN POWER

Sovereignty is stated to belong "unconditionally to the nation."⁴

RIGHTS OF THE PEOPLE

The Constitution guarantees personal liberty,⁵ equality before the laws,⁶ inviolability of person and freedom of conscience, thought, speech, press,

¹ See Yearbook of the Court, 1947-48, p. 39; also Documents & State Papers, U.S. Dept. of State, June 1948, Vol. 1, No. 3, pp. 192, 203.

² See Table I.

³ Id., Art. 68.

⁴ Const. of 1945, Arts. 1, 2.

⁵ Id., Art. 69.

⁶ Id., Art. 3.

travel, contract, labor, private property, assembly, association, and incorporation;¹ also the inviolability of life, property, honor, and residence;² prohibition of torture, bodily mistreatment, confiscation, and forced labor;³ the secrecy and inviolability of correspondence;⁴ the right to petition,⁵ and compulsory and free primary education.⁶

LEGISLATIVE DEPARTMENT

Legislative power is vested in the Grand National Assembly composed of members elected by universal suffrage for a term of four years.⁷

EXECUTIVE DEPARTMENT

Executive power is exercised by the Grand National Assembly through the President and a council of ministers.⁸ The President is elected by the Assembly from among its own members for a one year term and is eligible for re-election.⁹ Provision is made for a prime minister chosen by the President from among the deputies, and the former chooses other ministers, also from among the deputies, subject to approval by the President.¹⁰ The council of ministers is subject to dismissal by the Assembly.¹¹ The President presides over the Assembly on ceremonial occasions but may not take part in the discussions nor vote.¹²

JUDICIAL DEPARTMENT

The Constitution states that judges are independent and protected from interference and that their decisions "may not be modified in any manner whatsoever by the Grand National Assembly or by the council of ministers nor be postponed or their application be obstructed."¹³ A Supreme Court is provided to try high officials.¹⁴

AREA, POPULATION, LANGUAGE

Turkey has an area of 294,493 square miles and a population of about 19,000,000. The official language is Turkish.¹⁵

¹ Const. of 1945, Art. 70.

⁴ Id., Art. 81.

⁷ Id., Arts. 9, 10, 13.

¹⁰ Id., Art. 44.

¹³ Const., Art. 54.

² Id., Art. 71.

⁵ Id., Art. 82.

⁸ Id., Art. 7.

¹¹ Id., Art. 7.

¹⁴ Id., Art. 61.

³ Id., Art. 73.

⁶ Id., Art. 87.

⁹ Id., Art. 31.

¹² Id., Art. 32.

¹⁵ Id., Art. 2.

THE TURKISH CONSTITUTION¹

January 10, 1945

CHAPTER I

Fundamental Provisions

Art. 1. The Turkish State is a Republic.

Art. 2. The Turkish State is republican, nationalist, populist, étatist, secular and revolutionary. Its official language is Turkish and its capital is the city of Ankara.

Art. 3. The sovereignty belongs unconditionally to the nation.

Art. 4. The Grand National Assembly of Turkey is the sole representative of the nation on whose behalf it exercises the rights of sovereignty.

Art. 5. The legislative authority and executive powers are concentrated and manifested in the Grand National Assembly.

Art. 6. The Grand National Assembly exercises the legislative authority.

Art. 7. The Grand National Assembly exercises its executive authority through the person of the President of the Republic elected by it, and a council of ministers chosen by the President.

The Assembly may at any time control the activities of the government (council of ministers) and dismiss it.

Art. 8. Judicial authority is exercised by independent tribunals in the name of the nation in accordance with the laws and regulations in force.

CHAPTER II

Legislative Powers

Art. 9. The Turkish Grand National Assembly is composed of deputies elected by the nation in accordance with a special law.

Art. 10. Every Turk, man or woman, who has completed his twenty-second year, has the right to vote in the election of Turkish deputies.

Art. 11. Every Turk, man or woman, who has completed his thirtieth year, may be elected deputy.

Art. 12. The following persons may not be elected as deputy: persons in the service of a foreign state; persons who have received a sentence of a defamatory nature or a sentence for theft, fraud, swindling, abuse of confidence, or fraudulent bankruptcy; persons over whom a guardianship has been established; those claiming foreign citizenship; persons deprived of their civil rights; and, lastly, those who are unable to read and write Turkish.

Art. 13. Elections of representatives to the Grand National Assembly are to be held once every four years.

Deputies whose terms have expired are eligible to re-election.

¹ Translation received from Turkish Information Office, Washington, D. C., November 13, 1947; revised in minor respects.

The outgoing Assembly exercises its functions until the meeting of the newly constituted Assembly.

Should the holding of new elections prove impossible, the legislative term may be extended for another year.

A deputy is not only the representative of his constituency but that of the entire nation.

Art. 14. The Grand National Assembly shall convene on the first day of November each year without a summons.

The period for which the Assembly may adjourn in order to enable the deputies to visit the country and to collect material for their supervisory functions as well as to provide for their personal rest, shall not exceed six months.

Art. 15. The right of introducing laws belongs to the members of the Assembly and to the council of ministers.

Art. 16. Deputies shall take the following oath of office when joining the Assembly:

I swear on my honor that I shall not pursue any course contrary to the prosperity and safety of the country and nation and to complete national sovereignty and that I will be loyal and faithful to the principles of the Republic.

Art. 17. Deputies are not responsible for their votes, opinions, and statements in the Assembly, nor are they responsible for making known these statements, opinions, or votes outside the Assembly. The examination, arrest, or trial of a deputy who is charged with an offense previous or subsequent to his election, can only take place following a decision by the Grand National Assembly. Cases of a criminal nature *in flagrante delicto* are excepted from this provision; however, in such instances, the competent authorities are expected immediately to inform the Assembly thereof. The application of a penal sentence pronounced against a deputy prior to or after his election shall be postponed until the expiration of his membership. The statute of limitations is not operative during the term of deputyship.

Art. 18. The annual compensation of deputies is determined by special law.

Art. 19. If the Grand National Assembly is in recess, it may be convoked in special session by the President of the Republic or the president of the Assembly whenever deemed necessary; it shall likewise be convened by the president of the Assembly following the request of one-fifth of the members of the Assembly.

Art. 20. The debates in the Assembly shall be open to the public and shall be published word for word.

However, the Assembly may also hold secret sessions in accordance with the rules of procedure. The publication of the minutes of secret sessions is subject to a decision of the Assembly.

Art. 21. The Assembly conducts its debates in accordance with the provisions of its rules of procedure.

Art. 22. Questions, interpellations, and parliamentary inquiries lie within the province of the Assembly and are governed by the provisions of the rules of procedure.

Art. 23. A person is not permitted to be a deputy and hold another government post at the same time.

Art. 24. The Grand National Assembly of Turkey elects in a plenary session at the beginning of each November a president and three vice-presidents of the Assembly for one year.

Art. 25. In the case of new elections before the expiration of the term by a decision of a majority of the Assembly, the term of the incoming Assembly begins the following November.

The session preceding November shall be considered as an extraordinary session.

Art. 26. The Grand National Assembly alone exercises such functions as enacting, modifying, interpreting, and abrogating laws; concluding conventions and treaties and making peace with foreign states; declaring war; examining and approving laws relative to the general budget and the final accounts of the State, coining money, approving or annulling contracts and concessions involving financial obligations; proclaiming partial or general amnesty; reducing or modifying sentences, postponing legal investigations and penalties, and executing definitive death sentences pronounced by the courts.

Art. 27. A deputy who is found guilty of treason or other crimes committed during his term of deputyship by a decision of two-thirds of the members of the Grand National Assembly, or who is convicted for any crime mentioned in Article 12 of the present law and the sentence becomes final, loses his deputyship.

Art. 28. A member of the Grand National Assembly shall forfeit his deputyship by resignation, by being placed under guardianship, by absence from the Assembly without permission or admissible excuse for a period of two months, or by acceptance of government office.

Art. 29. Whenever a deputy loses his deputyship for any of the reasons stated in the preceding articles or in case of his death, another deputy will be elected in his place.

Art. 30. The Grand National Assembly organizes and directs its policy through its president.

CHAPTER III

Executive Powers

Art. 31. The President of the Turkish Republic shall be elected for one assembly term by the Grand National Assembly in a plenary session from among its members. The outgoing President shall remain in office until the election of the new President of the Republic. A President is eligible for re-election.

Art. 32. The President of the Republic is the chief of the State. In this capacity he may, during special ceremonies, preside over the Assembly and whenever he should deem it necessary may also preside over the council of ministers. The President of the Republic may not participate in the debates and discussions of the Assembly or cast his vote as long as he occupies the position of president.

Art. 33. If the President of the Republic is prevented from exercising his functions due to a reason such as illness or a journey abroad, or if the presidency becomes vacant through death or resignation or for some other reason, the president of the Grand National Assembly shall provisionally exercise the duties of the President of the Republic.

Art. 34. Should the Assembly be in session when a vacancy occurs in the presidency of the Republic, it shall immediately proceed to the elec-

tion of a new President. If the Assembly is not in session, a special session thereof shall be immediately convoked by its president for the purpose of electing a President of the Republic. If the term of the Assembly has expired or if new elections have been decided on, the succeeding Assembly shall elect a President of the Republic.

Art. 35. The President of the Republic shall promulgate the laws voted by the Grand National Assembly within a period of ten days.

With the exception of the organic and budget laws, the President may return to the Assembly for reconsideration—likewise within ten days and accompanied by an explanation of reasons—such laws whose promulgation he does not approve.

Should such a law be voted by the Assembly for a second time, the President of the Republic is obliged to proceed to its promulgation.

Art. 36. The President of the Republic shall in November of each year deliver personally or have read by the Prime Minister an address to the Assembly regarding the activities of the government during the past year as well as the measures recommended for the coming year.

Art. 37. The President of the Republic shall appoint the diplomatic representatives of the Turkish Republic to foreign states and shall receive like representatives of other powers.

Art. 38. The President of the Republic shall, immediately after his election, take the following oath before the Grand National Assembly:

As President of the Republic I swear upon my honor that I shall always respect and defend the laws of the Republic and the principles of national sovereignty, faithfully strive with all my strength for the welfare of the Turkish nation, ward off with vigor any threat or danger to the Turkish State, protect and magnify the honor and glory of Turkey, and devote myself with all my capacity to the duty which I am assuming.

Art. 39. All decrees promulgated by the President of the Republic shall be signed by the Prime Minister and the competent minister.

Art. 40. The supreme command of the army is vested in the Grand National Assembly and is represented by the President of the Republic. In time of peace the command of all armed forces is entrusted by special law to the chief of the general staff, and in time of war is given to the person appointed by the President of the Republic upon the proposal of the council of ministers.

Art. 41. The President of the Republic is responsible to the Grand National Assembly in case of high treason. All responsibility for decrees promulgated by the President of the Republic is incumbent on the Prime Minister and on the ministers who, according to the stipulations of Article 39, placed their signature on the decree in question. Should the President be held responsible for matters of a personal nature, the provisions of Article 17 of the present law pertaining to parliamentary immunity will be applied.

Art. 42. The President of the Republic may, on the proposal of the council of ministers, suspend or reduce sentences of convicts for personal reasons such as incurable illness or infirmity. However, the President of the Republic cannot exercise this right on behalf of ministers who have been tried and convicted by the Grand National Assembly.

Art. 43. The compensation of the President of the Republic is determined by a special law.

Art. 44. The Prime Minister is designated by the President of the Republic from among the members of the Assembly. The other ministers are chosen by the Prime Minister from the members of the Assembly and presented collectively to the Assembly following the approval of the President of the Republic.

In the event that the Grand National Assembly is not in session, the presentation (of the council of ministers) is postponed until the meeting of the Assembly.

The government must submit its program and policy to the Assembly within one week at the latest and request a vote of confidence.

Art. 45. The ministers form under the presidency of the Prime Minister the council of ministers (executive council).

Art. 46. The council of ministers is collectively responsible for the general policy of the government.

Each minister shall be individually responsible for the affairs falling within his jurisdiction and for the acts and accomplishments of his subordinates as well as for his general policy.

Art. 47. The duties and responsibilities of the ministers shall be defined by special law.

Art. 48. The number of ministries is likewise defined by law.

Art. 49. If because of leave of absence or for another reason, a minister is not in attendance, another member of the council of ministers shall temporarily act on behalf of the said minister. However, a minister may not act temporarily on behalf of more than one minister simultaneously.

Art. 50. If the Grand National Assembly of Turkey decides to summon for trial before the Supreme Court a member of the council of ministers, this decision shall likewise involve his relinquishment of office as minister.

Art. 51. A council of state shall be formed, the duties of which will be to examine and decide administrative suits and conflicts; to express its opinion in regard to draft laws and terms of contracts and concessions to be granted by the government, and to discharge any duties which may be incumbent on it in accordance with the law providing for the constitution of the council, or by virtue of subsequent laws. The president and members of the council of state are chosen by the Grand National Assembly from such persons of distinction as have filled high administrative posts and who possess special knowledge and experience.

Art. 52. The council of ministers shall draw up regulations determining the mode of application of existing laws or particular sections in the law, provided the said regulations do not contain new legal provisions and are approved by the council of state.

These regulations become effective after signature and promulgation by the President of the Republic.

In case of an alleged conflict between the regulations and the laws, the Grand National Assembly shall have jurisdiction in the matter.

CHAPTER IV

Judicial Powers

Art. 53. The organization of courts, their functions, and their jurisdiction are determined by law.

Art. 54. The magistrates of courts are independent in the trial of all cases and in the rendering of their verdicts; they are free from all kinds of interference and are dependent only upon the law.

The decisions of courts may not be modified in any manner whatsoever by the Grand National Assembly or by the council of ministers nor be postponed or their application be obstructed.

Art. 55. Magistrates of courts may not be dismissed under any circumstances or manner other than specified by law.

Art. 56. The qualifications of magistrates, their rights, duties, compensation, and the manner of their appointment and dismissal are determined by special law.

Art. 57. Magistrates may assume no private or public functions other than those provided for by law.

Art. 58. Court hearings are public; however, the court may decide to hold secret sessions in accordance with the law on court procedure.

Art. 59. Every individual has free recourse to all legal means which may be deemed necessary for the defense of his rights before a court.

Art. 60. No tribunal may refuse to examine cases which lie within its competence and jurisdiction. Cases not coming within the court's jurisdiction can be rejected only following the rendering of a decision (by the court itself).

Supreme Court

Art. 61. A Supreme Court is constituted and the jurisdiction thereof shall extend to the trial of members of the council of ministers, the president and members of the council of state and of the court of cassation, as well as the chief public prosecutor, in all matters arising from the performance of their duties.

Art. 62. The Supreme Court shall be composed of twenty-one members, eleven from the president and members of the court of cassation and the remaining ten from the president and members of the council of state. The said members shall be elected by the above bodies from among their members and president, in case of necessity by secret ballot.

The said members of the Supreme Court shall in their turn elect from among themselves by secret ballot and majority vote a president and a vice-president.

Art. 63. Supreme Court trials shall be held before the president and fourteen members, and the court's decisions shall be determined by majority vote.

The six remaining members shall constitute alternates intended to complete the court in case of vacancies.

The said members will be chosen by lot, three from among those elected from the council of state and three from those elected from the court of cassation.

The members elected to the presidency and vice-presidency shall not be included in the said drawing of lots.

Art. 64. The functions of prosecutor general of the Supreme Court will be fulfilled by the prosecutor general of the Republic.

Art. 65. The decisions of the Supreme Court are final.

Art. 66. The Supreme Court shall conduct trials and render verdicts in accordance with the laws currently in force.

Art. 67. The Supreme Court shall be constituted by decision of the Grand National Assembly of Turkey whenever it is deemed necessary.

CHAPTER V

General Rights of Turkish Citizens

Art. 68. Every Turk is born free and free he lives.

Liberty consists of any action which is not detrimental to others.

The limits of an individual's liberty, which is his natural right, extend only to the point where they infringe on the liberties enjoyed by his fellow-citizens. The said limits are defined solely by law.

Art. 69. All Turks are equal before the laws and are expected conscientiously to abide by them.

Every type of group, class, family, and individual privilege is abolished and prohibited.

Art. 70. Personal immunity, freedom of conscience, of thought, of speech and press, the right to travel, to make contracts, to work, to own and dispose of property, to meet and associate, and to incorporate form part of the rights and liberties of Turkish citizens.

Art. 71. The life, property, honor, and residence of each individual are inviolable.

Art. 72. No individual shall be seized or arrested under any other circumstance or manner than that provided by law.

Art. 73. Torture, bodily mistreatment, confiscation, and forced labor are prohibited.

Art. 74. No person may be deprived of his possessions and property or have them expropriated unless it be formally established that it is required for public benefit and unless he has first been indemnified in cash for the value of the property in accordance with the pertinent laws.

The expropriation indemnity and the manner of payment of such indemnity for land and forest to be expropriated, in order to make the farmer proprietor of land and to place administration of forests under the State, shall be determined by special laws.

No person shall be constrained to make any sort of sacrifice except such as may be imposed in kind, or money, or in the form of labor in extraordinary circumstances and in conformity with the law.

Art. 75. No one may be censured for the philosophical creed, religion, or doctrine to which he may adhere. All religious services not in contravention to public order and morals and the laws are authorized.

Art. 76. No one's domicile may be entered or his person searched except as in the manner and under the conditions stipulated by law.

Art. 77. The press shall enjoy freedom within the framework of the law and shall not be subject to any censorship or control prior to publication.

Art. 78. Travel is subject to no restriction whatsoever except in cases of general mobilization, martial law, or legislative restrictions of a hygienic nature necessitated by epidemics.

Art. 79. The limits imposed on the liberty of making contracts, of labor, of ownership, of meeting and associating, and of incorporating shall be determined by law.

Art. 80. Instruction of any kind is free within the limits laid down by law under the supervision and control of the State.

Art. 81. Documents, letters, and all kinds of parcels delivered to the postal authorities may not be opened without a decision by a competent examining magistrate and tribunal. Likewise the secrecy of telegraphic and telephonic conversation may not be violated.

Art. 82. Turkish citizens shall have the right, should they notice any instances which are in contravention to the laws and regulations in force, to report such cases or complain, individually or collectively, either in their own interest or in the interest of the community, to the competent authorities or to the Grand National Assembly. The reply to a personal application must be communicated to the petitioner in written form.

Art. 83. No one may be summoned before or taken to a court other than to that court having jurisdiction in the question in accordance with the law.

Art. 84. Taxes shall be understood to be the participation of the people in the general expenditures of the State. The collection of toll, tithes, or any other kind of taxes in a manner incompatible with the aforesaid principle by individuals or corporations or in their behalf is prohibited.

Art. 85. Taxes may be levied and collected only by virtue of a law.

However, the collecting of such taxes as have been customarily levied by the State or by provincial and municipal administrations may be continued pending the enactment of new laws.

Art. 86. In the event of a war, rebellion, or in the case of convincing evidence of a positive and serious conspiracy against the country and the Republic, the council of ministers may proclaim partial or general martial law on condition that this does not exceed one month and that this measure is submitted without delay to the Grand National Assembly for approval. The Assembly may, if deemed necessary, extend or reduce the duration of martial law. Should the Assembly not be in session, it shall be convened immediately.

The prolongation of martial law is subject to the decision of the Grand National Assembly. Martial law implies the temporary restriction or suspension of personal and residential immunity, of inviolability of correspondence, of the freedom of the press and of the right of assembling and associating.

The area over which martial law may be proclaimed, the application of the provisions of this regulation over the said area, as well as the mode of restriction or suspension of immunity and freedom in time of war, is determined by law.

Art. 87. Primary education is compulsory for all Turks male or female and is free in State schools.

Art. 88. The people of Turkey, regardless of religion and race, are Turks as regards citizenship.

Any person born of a Turkish father, in Turkey or elsewhere, as well as any person born of an alien father domiciled in Turkey and who, residing in Turkey, formally assumes Turkish citizenship upon attaining majority, as well as any person granted Turkish citizenship by law, are Turks. Turkish citizenship may be lost under circumstances defined by law.

CHAPTER VI

Miscellaneous

Provinces

Art. 89. Turkey is divided on the basis of geographic conditions and economic relations into provinces, the provinces into districts, the districts into sub-districts which are made up of hamlets and villages.

Art. 90. Provinces, towns, hamlets, and villages are considered to be incorporative persons.

Art. 91. The provinces are administered according to the principle of decentralization and division of functions.

Government Officials

Art. 92. Any Turk in full possession of his political rights may be employed in the service of the government with due consideration as to his qualifications and capacities.

Art. 93. The qualifications of government officials, their rights and duties, their salaries, the mode of their appointment, dismissal, and promotion are determined by law.

Art. 94. In case of an infraction of the law, an official or employee of the government may not escape responsibility on the ground of compliance with instructions from superiors.

Financial Affairs

Art. 95. The bill relating to the annual budget as well as all the draft budgets, tables, and annexed budgets connected therewith, shall be submitted to the Grand National Assembly at least three months before the beginning of the fiscal year.

Art. 96. Public funds may not be spent in excess of the provisions of the budget law.

Art. 97. The provisions of the budget law are valid for the duration of one year.

Art. 98. The final accounts shall show the actual figures of revenues collected in the course of the fiscal year of the pertinent budget as well as disbursements effected during the said fiscal year. The form and rules relative to the drawing up of the final accounts must be analogous to those provided for in the budget law.

Art. 99. The draft of the final accounts shall be submitted to the Grand National Assembly not later than the beginning of November of the second year following the end of the fiscal year which it covers.

Art. 100. A bureau of accounts attached to the Grand National Assembly is charged with the control in accordance with the law *ad hoc* of all revenues and disbursements of the State.

Art. 101. The bureau of accounts shall submit to the Grand National Assembly, at the latest within six months following the submittal of the final accounts, a general statement of verification.

Provisions Relating to the Constitution

Art. 102. Amendments of any of the provisions of the present Constitution can be made only under the following conditions:

The motion for amendment must be signed by at least one-third of all the members of the Assembly.

The amendment must be supported by the vote of a majority numbering two-thirds of the total members of the Assembly.

An amendment or a modification of Article 1 of the present law, stating that the form of government of the country is a Republic, cannot even be proposed under any circumstances or in any form whatsoever.

Art. 103. No provision of the organic law shall be disregarded or its application suspended for any reason or under any pretext whatsoever.

No law may contain provisions contrary to the organic law.

Art. 104. This law takes the place of, in simplified Turkish and without instituting any change in meaning and understanding, Organic Law No. 491, dated April 20, 1924.

Art. 105. The present law enters into force on the date of its publication.

Date of Publication:

January 10, 1945

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UKRAINIAN SSR

SUMMARY

INTERNATIONAL STATUS

The Ukrainian Soviet Socialist Republic is a member of the United Nations. It signed the Charter of that organization in San Francisco on June 26, 1945, and deposited its ratification October 24, 1945. The competence of the Ukraine in international relationships for at least that purpose was recognized by the United States of America and other members of the United Nations when the Ukrainian and Byelorussian Republics were given representation at the San Francisco Conference.

On February 1, 1944, the Supreme Soviet of the USSR had voted to give its sixteen component republics their own ministries of national

defense and foreign affairs with authority to enter into direct relations with foreign states and to exchange diplomatic and consular representatives with them.

The Ukrainian SSR was formed in 1919. Its area was increased in 1940 by the addition of the northern part of Bukowina, which had been held by Rumania, and in 1945 by the addition of the Carpatho-Ukraine, which had been the eastern part of Czechoslovakia.

The Ukrainian SSR was not a member of the League of Nations, nor was it a party to the Paris Treaty of 1928 for the renunciation of war, or the Statute of the Old Permanent Court of International Justice. It is a party to relatively few of the international organizations.¹

FORM OF NATIONAL GOVERNMENT

The Ukrainian SSR has a written constitution, adopted January 30, 1937, and amended in 1947. It is closely modeled on that of the USSR and provides for "a socialist state of workers and peasants".² It recites that "for the purpose of realization of reciprocal help along economic and political lines, as well as along the line of defense, the Ukrainian Soviet Socialist Republic has voluntarily united with the other equal Soviet Socialist Republics," and that except for the provisions of Article 14 of the Constitution of the USSR which it recognizes as supreme, the UkSSR "exercises state authority independently, preserving fully its sovereign rights."³ The UkSSR reserves the right to withdraw from the USSR,⁴ and declares its right "to enter into direct relations with foreign states, to conclude agreements with them, and to exchange with them both diplomatic and consular representatives."⁵ Its territory may not be changed without its consent.⁶

Its Constitution recognizes the principle that "he who does not work, does not eat" and says that in the UkSSR the socialist principle has been realized, "From each according to his ability, to each according to his work."⁷ The Constitution contemplates the receipt of "income from the local economy" by the state and local units of government, and also the assessment of taxes and levies by them.⁸ It claims to have eliminated the possibility of economic crises and unemployment.⁹

SOURCE OF SOVEREIGN POWER

All power in the UkSSR belongs to workers in cities and villages and is vested in the Soviets of Workers' Deputies.¹⁰

¹ See Table I.

⁴ Id., Art. 14.

⁷ Id., Art. 12.

¹⁰ Id., Art. 3.

² Const., Art. 1.

⁴ Id., Art. 15b.

⁸ Id., Art. 83.

³ Id., Art. 13.

⁶ Id., Art. 15.

⁹ Id., Art. 98.

. RIGHTS OF THE PEOPLE

The basis of economic life, under the Ukrainian Constitution, is "the Socialist system of economy and the Socialist system of ownership of the instruments and means of production."¹ Most property is communal.² Ownership of "small private enterprises conducted by individual peasants and artisans and which are based on personal effort and exclude exploitation of hired help" is permitted;³ and the "personal property right of citizens in income and savings, home ownership, home-run enterprises, the objects of domestic economy and use and articles of personal use and convenience, as well as the rights of inheritance of personal property, are guaranteed by law."⁴

The Constitution guarantees to citizens "employment, with payment for work in accordance with its quantity and quality,"⁵ yearly vacations with pay,⁶ old age and sickness benefits and rest homes,⁷ free education up to and including the seventh grade,⁸ equal rights of women,⁹ equality of races,¹⁰ freedom of worship,¹¹ freedom of speech, press and assembly,¹² freedom to associate and form unions,¹³ inviolability of the person,¹⁴ inviolability of the home and secrecy of correspondence.¹⁵

Emphasis is placed upon "the right of active and informed citizens of working-class origin and from other working strata to join the Ukrainian Communist Party (Bolsheviks), which is the vanguard of workers in their struggle for strengthening and developing of the socialist order and which constitutes the leading core of all workers' civilian and state organizations."¹⁶

LEGISLATIVE DEPARTMENT

Legislative power is vested in the Supreme Soviet, the members of which are elected for four years by general, equal, direct and secret suffrage.¹⁷ There is one deputy for each 100,000 of population.¹⁸ Legislation requires a simple majority vote.¹⁹

EXECUTIVE DEPARTMENT

The highest executive and administrative body of the State is the Council of Ministers.²⁰ The Council is, however, responsible and subordinate to the Supreme Soviet or, when the latter is not in session, to the

¹ Const., Art. 4.⁴ Id., Art. 10.⁷ Id., Art. 100.¹⁰ Id., Art. 103.¹¹ Id., Art. 104.¹² Id., Art. 105.¹⁵ Id., Art. 108.¹⁶ Id., Art. 21.² Id., Arts. 6-8.⁵ Id., Art. 98.⁸ Id., Art. 101.¹³ Id., Art. 106.¹⁴ Id., Art. 106.¹⁷ Id., Art. 106.¹⁸ Id., Art. 24.¹⁹ Id., Art. 24.³ Id., Art. 9.⁶ Id., Art. 99.⁹ Id., Art. 102.¹⁴ Id., Art. 107.¹⁷ Id., Arts. 21, 23, 114.²⁰ Id., Art. 39.

¹¹ Id., Art. 104. The Church is separated from the State and the School from the Church, and freedom of conscience is recognized in this article.

Presidium, a body created by the Supreme Soviet and consisting of nineteen members.¹

JUDICIAL DEPARTMENT

Justice is administered by a Supreme Court, provincial courts, courts of administrative regions, people's courts, and special courts of the USSR.² Members of the Supreme Court are elected by the Supreme Soviet for a term of five years.³ Interpretation of laws and revocation of decisions and decrees of the Council of Ministers and the Provincial Soviets, because they do not conform to the laws, are functions of the Presidium.⁴

"The agencies of the public prosecutor's office carry out their functions independent of any local bodies whatsoever and are subordinate to the public prosecutor of the USSR only."⁵

PROVINCIAL AND LOCAL GOVERNMENT

The UkSSR is made up of twenty-five provinces.⁶ The Soviets of Workers' Deputies constitute the state government bodies in provinces, circuits, districts, cities, towns, villages, and hamlets.⁷ Each of the provincial Soviets has an executive committee and eighteen subordinate departments; it may have as many as five additional subordinate departments if they are needed.⁸

AREA, POPULATION, LANGUAGE

The Ukrainian SSR has an area of 215,600 square miles and a population of more than 40,000,000. The language is Ukrainian. Court proceedings are conducted in the Ukrainian language, but persons not familiar with that language may use their own language in court.⁹

¹ Const., Arts. 28, 40.

⁴ Id., Art. 30.

⁷ Id., Art. 54.

² Id., Art. 84.

⁵ Id., Art. 97.

⁸ Id., Art. 69.

³ Id., Art. 87.

⁶ Id., Art. 18.

⁹ Id., Art. 90.

CONSTITUTION (BASIC LAW) OF THE UKRAINIAN SOVIET SOCIALIST REPUBLIC¹

January 30, 1937 (as amended in 1947)

Section I

Social Structure

Art. 1. The Ukrainian Soviet Socialist Republic is a socialist state of workers and peasants.

Art. 2. The political foundation of the UkSSR is the Soviets of Workers' Deputies who grew up and were strengthened as the result of the overthrow of the rule of the landed gentry and capitalists, the conquest of the proletarian dictatorship, the freeing of the Ukrainian people from the chauvinist yoke of czarism and the Russian imperialist bourgeoisie, and the destruction of chauvinist counter-revolution.

Art. 3. All power in the UkSSR belongs to workers in cities and villages, and is vested in the Soviets of Workers' Deputies.

Art. 4. The basis of the economic life of the UkSSR is the Socialist system of economy and the Socialist system of ownership of the instruments and means of production. These were established as the result of the liquidation of the capitalist system of economy, the abolition of private ownership of instruments and means of production, and the annihilation of exploitation of man by man.

Art. 5. In the UkSSR Socialist property consists of either state ownership (all-people's ownership) or co-operative-collective ownership (ownership by individual collective farms or by co-operative societies).

Art. 6. The land—its subsoil, waters, forests, mills, factories, coal mines, mines; its rail, water, and air systems of transportation, banks, means of communication; large state organized agricultural enterprises (state farms, tractor stations, etc.) as well as municipal enterprises and the bulk of dwelling houses in the cities and industrial centers—constitute state property, which means property of all the people.

Art. 7. The public enterprises—collective farms, and co-operative organizations, together with their livestock and implements, the products of collective farms and co-operative organizations as well as their common buildings—constitute the public socialist property of such collective farms and co-operative organizations.

Besides any income derived from a collectively owned farm organization, every household of a collective farm has the right to use a small plot of arable land and to own as its personal property a subsidiary business on this plot, a home, productive livestock, and small personal farm equipment in accordance with the rules of the agricultural artel.

¹Translated from Ukrainian text received by the editor from the Ministry of Foreign Affairs of the Ukrainian SSR in June, 1948.

Art. 8. The land occupied by collective farms is secured to them free of charge for an interminable period of time, which means, forever.

Art. 9. Although the socialist system of ownership is the principal form of ownership in the UkSSR, the law allows ownership of small private enterprises conducted by individual peasants and artisans and which are based on personal effort and exclude exploitation of hired help.

Art. 10. The personal property right of citizens in income and savings, home ownership, home-run enterprises, the objects of domestic economy and use and articles of personal use and convenience, as well as the rights of inheritance of personal property, are guaranteed by law.

Art. 11. Economic life in the UkSSR is determined and supervised in accordance with state national economic plans, which are drawn up in the interest of increasing public wealth, of steadily raising the economic and cultural level of the workers, of consolidating the independence of the socialist state and of improving its defenses and safety.

Art. 12. In the UkSSR work is a duty and a matter of honor of every able-bodied citizen, in accordance with the principle, "He who does not work, does not eat."

In the UkSSR is realized the Socialist principle, "From each according to his ability, to each according to his work."

Section II

State Structure

Art. 13. For the purpose of realization of reciprocal help along economic and political lines, as well as along the line of defense, the Ukrainian Soviet Socialist Republic has voluntarily united with the other equal Soviet Socialist Republics, namely, the Russian Soviet Federated Socialist Republic, the Byelorussian Soviet Socialist Republic, the Uzbek Soviet Socialist Republic, the Kazakh Soviet Socialist Republic, the Georgian Soviet Socialist Republic, the Azerbaijan Soviet Socialist Republic, the Lithuanian Soviet Socialist Republic, the Moldavian Soviet Socialist Republic, the Latvian Soviet Socialist Republic, the Kirghiz Soviet Socialist Republic, the Tajik Soviet Socialist Republic, the Armenian Soviet Socialist Republic, the Turkmen Soviet Socialist Republic, the Estonian Soviet Socialist Republic, the Karelo-Finnish Soviet Socialist Republic, to form a united state called the Union of Soviet Socialist Republics.

In accordance with this, the UkSSR delegates to the USSR, in the person of its supreme organs of government and administration, the rights set forth in Article 14 of the Constitution of the USSR.

Outside of the provisions of Article 14 of the Constitution of the USSR the UkSSR exercises state authority independently, preserving fully its sovereign rights.

Art. 14. The Ukrainian Soviet Socialist Republic reserves the right of free withdrawal from the Union of Soviet Socialist Republics.

Art. 15. The territory of the UkSSR cannot be changed without consent of the UkSSR.

Art. 15-a. The UkSSR has its own republican military forces.

Art. 15-b. The UkSSR has the right to enter into direct relations with foreign states, to conclude agreements with them, and to exchange with them both diplomatic and consular representatives.

Art. 16. The laws of the USSR are obligatory on the territory of the UkSSR.

Art. 17. Every citizen of the UkSSR is a citizen of the USSR.

Citizens of all the other republics of the Union possess equal rights with the citizens of the UkSSR, on the territory of the UkSSR.

Art. 18. The Ukrainian Soviet Socialist Republic consists of the following provinces: Vinnitsa, Volhynia, Voroshilovgrad, Dnepropetrovsk, Drohobych, Zhitomir, Transcarpathia, Zaporozhye, Ismail, Kamenets-Podolsk, Kiev, Kirovograd, Lvov, Nikolayev, Odessa, Poltava, Rovno, Stalino, Stanislav, Sumi, Ternopol, Kharkov, Kherson, Chernigov, Chernovits.

Art. 19. The supreme bodies of government and public administration of the Ukrainian Soviet Socialist Republic are charged with the following functions:

(a) Establishment of the Constitution of the UkSSR and control over its execution;

(b) Submission for approval of the Supreme Soviet of the USSR of proposals to create new provinces within the UkSSR;

(c) Establishment of boundaries and regional divisions of provinces of the UkSSR;

(d) Legislation of the UkSSR;

(e) Preservation of state order and of rights of citizens;

(f) Approval of the plans for the national economy of the UkSSR;

(g) Supervision over the compilation and execution of the budget of the UkSSR;

(h) Establishment, in accordance with the laws of the USSR, of state and local taxes, collections, and non-tax income;

(i) Supervision over local budgets of the provinces;

(j) Supervision over insurance and savings bank matters;

(k) Supervision over banking, industrial, farming, trade enterprises, and the organizations subordinate to the Republic, as well as supervision over local industries;

(l) Control and supervision over the condition and management of enterprises of All-Union character;

(m) Establishment of methods of land management as well as of management of mines, forests, and waters;

(n) Supervision over housing and communal enterprises, housing construction, and general welfare of cities and other populated places;

(o) Road construction, supervision over local transportation and communication;

(p) Legislation concerning workers;

(q) Supervision over matters of social insurance;

(r) Supervision over matters of primary, secondary, and university education;

(s) Supervision over cultural-educational and scientific organizations in the UkSSR, as well as administration of cultural-educational and scientific organizations of All-Republic character;

(t) Supervision over matters of public health and the administration of public health enterprises of All-Republic character;

(u) Supervision over and formation of physical culture and sport organizations;

(v) Organization of judicial agencies of the UkSSR;

(w) Granting UkSSR citizenship rights;

(x) Legislation concerning marriage and the family;

(y) Amnesty and pardon of citizens convicted by courts of the UkSSR;

- (z) Establishment of the method of formation of the UkSSR military force;
- (zz) Establishment of the UkSSR representation in matters of international relations.

Section III

Supreme Bodies of State Authority of the Ukrainian Soviet Socialist Republic

Art. 20. The supreme body of the state authority of the UkSSR is the Supreme Soviet of the UkSSR.

Art. 21. The members of the Supreme Soviet of the UkSSR are elected for a term of four years by the citizens of the UkSSR at the election centers in accordance with the norm (rate) of one deputy for each one hundred thousand of the population.

Art. 22. The Supreme Soviet of the UkSSR exercises all the rights vested in the UkSSR, in accordance with articles 13 and 19 of the Constitution of the UkSSR, as long as they do not represent the constitutionally defined jurisdiction of the bodies of the UkSSR subordinate to the Supreme Soviet of the UkSSR, namely: the Presidium of the Supreme Soviet of the UkSSR, the Council of Ministers of the UkSSR, and the Ministries of the UkSSR.

Art. 23. The Supreme Soviet of the UkSSR is the only legislative body of the UkSSR.

Art. 24. A draft becomes law when approved by a simple majority of the members of the Supreme Soviet of the UkSSR.

Art. 25. The laws approved by the Supreme Soviet of the UkSSR are published over the signatures of the Chairman and of the Secretary of the Presidium of the Supreme Soviet of the UkSSR.

Art. 26. The Supreme Soviet of the UkSSR elects a Chairman and two Vice-Chairmen of the Supreme Soviet of the UkSSR.

Art. 27. The Chairman of the Supreme Soviet of the UkSSR presides over the sessions of the Supreme Soviet of the UkSSR and manages its internal order.

Art. 28. The Supreme Soviet of the UkSSR elects the Presidium of the Supreme Soviet of the UkSSR which consists of the following members: the Chairman of the Presidium of the Supreme Soviet of the UkSSR, two Vice-Chairmen, the Secretary of the Presidium, and fifteen members of the Presidium of the Supreme Soviet of the UkSSR.

Art. 29. The Presidium of the Supreme Soviet of the UkSSR is responsible in all its activities to the Supreme Soviet of the UkSSR.

Art. 30. The Presidium of the Supreme Soviet of the UkSSR

- (a) Convenes the sessions of the Supreme Soviet of the UkSSR;
- (b) Issues decrees;
- (c) Interprets the laws of the UkSSR;
- (d) Conducts national referendums;
- (e) Revokes decisions and orders of the Council of Ministers and also decisions and orders of Provincial Soviets of Workers' Deputies if they do not conform with the laws;
- (f) Between the sessions of the Supreme Soviet of the UkSSR, and on the recommendation of the Chairman of the Council of Ministers of the UkSSR, removes from office and appoints to office individual Ministers, subject to approval by the Supreme Soviet of the UkSSR at its next session;
- (g) Confers citizenship of the UkSSR;

- (h) Awards honorary titles of the UkSSR and confers rewards;
- (i) Exercises the right to pardon citizens sentenced by the courts of the UkSSR;
- (j) Appoints and recalls diplomatic representatives of the UkSSR to foreign states;
- (k) Accepts credentials and letters of recall of diplomatic representatives of foreign states accredited to it.

Art. 31. The sessions of the Supreme Soviet of the UkSSR are convoked twice a year by the Presidium of the Supreme Soviet of the UkSSR.

Special sessions of the Supreme Soviet of the UkSSR may be convoked either at the request of the Presidium of the Supreme Soviet of the UkSSR or at the request of at least one-third of the deputies of the Supreme Soviet.

Art. 32. The Supreme Soviet of the UkSSR elects the credentials commission which scrutinizes the credentials of the deputies to the Supreme Soviet of the UkSSR.

On the recommendation of the credentials commission of the UkSSR the Supreme Soviet of the UkSSR decides either to accept the credentials or to order an election of special deputies.

Art. 33. When it deems necessary, the Supreme Soviet of the UkSSR appoints commissions of inquiry and auditing commissions for any matter whatever. All enterprises and officials are required to fulfill the requests of these commissions and present the necessary materials and documents.

Art. 34. The deputies of the Supreme Soviet of the UkSSR cannot be prosecuted by the courts nor arrested without assent of the Supreme Soviet of the UkSSR, or without assent of the Presidium of the Supreme Soviet of the UkSSR when the Supreme Soviet of the UkSSR is not in session.

Art. 35. At the conclusion of the plenary powers of the Supreme Soviet of the UkSSR, the Presidium of the Supreme Soviet of the UkSSR sets the date for new elections not later than two months from the day of expiration of the plenary powers of the Supreme Soviet of the UkSSR.

Art. 36. At the expiration of the plenary powers of the Supreme Soviet of the UkSSR, the Presidium of the Supreme Soviet of the UkSSR continues to exercise its authority until the newly elected Supreme Soviet of the UkSSR creates a new Presidium of the Supreme Soviet of the UkSSR.

Art. 37. The newly elected Supreme Soviet of the UkSSR is convoked by the Presidium of the Supreme Soviet of the UkSSR not later than three months after the elections.

Art. 38. The Supreme Soviet of the UkSSR forms the government of the UkSSR, called the Council of Ministers of the UkSSR.

Section IV

Bodies of State Administration of the Ukrainian Soviet Socialist Republic

Art. 39. The Council of Ministers of the UkSSR is the highest executive and administrative body of the state of the UkSSR.

Art. 40. The Council of Ministers of the UkSSR is responsible and subordinate to the Supreme Soviet of the UkSSR, and during the period between the sessions of the Supreme Soviet of the UkSSR it is responsible and subordinate to the Presidium of the Supreme Soviet of the UkSSR.

Art. 41. The Council of Ministers of the UkSSR issues decrees and orders on the basis of and in compliance with existent laws of the Union of the SSR and of the UkSSR, and of decrees and orders of the Council of Ministers of the USSR, and controls their execution.

Art. 42. The decrees and orders of the Council of Ministers of the UkSSR are compulsory for the entire territory of the UkSSR.

Art. 43. The Council of Ministers of the UkSSR:

(a) Co-ordinates and directs the work of the Ministries of the UkSSR and of other economic and cultural institutions subordinate to it; co-ordinates and verifies the work of authorized All-Union Ministries;

(b) Takes measures to put into practice the plan of national economy;

(c) Takes measures to put into practice the state and local budget of the UkSSR;

(d) Takes steps toward safeguarding of civilian order, national defense, and preservation of civilian rights;

(e) Supervises and scrutinizes work of provincial executive committees of the Soviets of Workers' Deputies;

(f) In emergency creates special committees and principal administrative bodies under the Council of Ministers of the UkSSR for management of economic and cultural developments;

(g) Directs organization of armed forces of the UkSSR;

(h) Directs relations of the UkSSR with foreign states in accordance with the general procedure established by the Union SSR concerning relations of the Union Republics with foreign states.

Art. 44. The Council of Ministers of the UkSSR has the right to suspend decisions and orders of provincial Soviets of Workers' Deputies and revoke orders and directives of Executive Committees of provincial Soviets of Workers' Deputies.

The Council of Ministers of the UkSSR has the right to revoke orders and instructions of Ministers of the UkSSR.

Art. 45. The Council of Ministers of the UkSSR is created by the Supreme Soviet of the UkSSR and consists of:

The Chairman of the Council of Ministers of the UkSSR;

The Vice-Chairmen of the Council of Ministers of the UkSSR;

The Chairman of the state planning commission of the UkSSR;

The following Ministers of the UkSSR:

Automobile Transport

Internal Affairs

State Control

State Security

Civilian Housing Construction

Foreign Affairs

Armed Forces

Cinematography

Communal Economy

Light Industry

Forest Economy

Forest Industry

Furniture and Carpentry Shops

Local Fuel Industry

Local Industry

Meat and Dairy Industry

Education

Public Health

Building Materials Industry
State Farms
Fishing Industry
Agriculture
Gustatory Industry
Social Insurance
Textile Industry
Trade
Finance
Food Industry
Justice
Chief of the Committee for Cultural and Educational Institutions
Chief of the Committee for Arts
Chief of the Administration for Higher Schools

Art. 46. The Ministers of the UkSSR manage the branches of the state administration within the jurisdiction of the UkSSR.

Art. 47. The Ministries of the UkSSR are either Union-Republican or Republican.

Art. 48. The following Ministries of the UkSSR belong to the class of Union-Republican Ministries of the UkSSR:

Internal Affairs
State Control
State Security
Foreign Affairs
Armed Forces
Cinematography
Light Industry
Forest Economy
Forest Industry
Meat and Dairy Industry
Public Health
Building Materials Industry
State Farms
Fishing Industry
Agriculture
Gustatory Industry
Textile Industry
Trade
Finance
Food Industry
Justice

Art. 49. The following Ministries of the UkSSR belong to the class of Republican Ministries:

Automobile Transport
Civilian Housing Construction
Communal Economy
Furniture and Carpentry Shops
Local Fuel Industry
Local Industry
Education
Social Insurance

Art. 50. To carry out laws of the USSR and of the UkSSR, decrees and orders of the Council of Ministers of the USSR and of the Council of

Ministers of the UkSSR and orders and instructions of the Union-Republican Ministries of the USSR,—the Ministers of the UkSSR issue instructions within the limits of the jurisdiction of the Ministries concerned and scrutinize execution of these tasks.

Art. 51. The Union-Republican Ministries of the UkSSR supervise the branches of state administration of the UkSSR entrusted to them and are supervised both by the Council of Ministers of the UkSSR and by the related Union-Republican Ministry of the USSR.

Art. 52. The Republican Ministries of the UkSSR supervise the branches of government entrusted to them and are directly responsible to the Council of Ministers of the UkSSR.

Art. 53. The government of the UkSSR or a Minister of the UkSSR to whom is addressed a question of a deputy of the Supreme Soviet of the UkSSR, is required to give an oral or written answer in the Supreme Soviet of the UkSSR within seventy-two hours.

Section V

Local Bodies of State Government

Art. 54. The Soviets of Workers' Deputies constitute the state government bodies in provinces, circuits, districts, cities, towns, villages, and hamlets of the UkSSR.

Art. 55. Provincial, circuit, district, city, large city ward, town, village, and other smaller community Soviets of Workers' Deputies are elected for two years by the respective workers of provinces, districts, cities, towns, villages, and hamlets.

Art. 56. The Soviet of Workers' Deputies of a province, city, district, town, village, or hamlet supervises the cultural-political and economic upbuilding of the territory under its supervision; establishes the local budget; manages the activity of subordinate bodies of government; insures preservation of the state order; co-operates in improvement of defense of the land; insures carrying out of the laws and preservation of the rights of citizens.

Art. 57. The Soviets of Workers' Deputies make decisions and issue orders within the jurisdiction granted them by the laws of the USSR and of the UkSSR.

Art. 58. The Executive Committee is the executive and managing body of a provincial, district, city, or village Soviet of Workers' Deputies. It is elected by the Soviet of Workers' Deputies and consists of a chairman, vice-chairman, secretary, and members.

Art. 59. The executive and managing body of a small community (small towns, villages, hamlets) consists of a chairman, vice-chairman, and secretary, who are elected by the related Soviet of Workers' Deputies.

Art. 60. The Executive Committees of the Soviets of Workers' Deputies of provinces, districts, cities, towns, villages, and hamlets carry out cultural-political and economic upbuilding of the territories under their jurisdiction on the basis of decisions of their respective Soviets of Workers' Deputies and of the superior state bodies.

Art. 61. The sessions of the provincial Soviets of Workers' Deputies are convoked by their respective Executive Committees not less than four times per year.

Art. 62. The sessions of district Soviets of Workers' Deputies and of Soviets of Workers' Deputies in administrative regions are convoked by their Executive Committees not less than six times a year.

Art. 63. The sessions of the city and village Soviets of Workers' Deputies are convoked by their respective executive bodies not less than once a month.

Art. 64. The provincial, administrative regional, district, and city Soviets of Workers' Deputies elect at the time of their session a chairman and a secretary to conduct the meetings of a session.

Art. 65. The chairman of a village Soviet of Workers' Deputies calls the village Soviet into session and conducts its meetings.

Art. 66. The executive body of a provincial, district, city, or village Soviet of Workers' Deputies is directly responsible to the Soviet of Workers' Deputies which elected it and to the executive body of a superior Soviet of Workers' Deputies.

Art. 67. The superior Executive Committees of Soviets of Workers' Deputies have the right to annul decisions and orders of the lower Executive Committees and to suspend decisions and orders of the lower Soviets of Workers' Deputies.

Art. 68. The superior Soviets of Workers' Deputies have the right to annul decisions and orders of the lower Soviets of Workers' Deputies and of their Executive Committees.

Art. 69. A provincial Soviet of Workers' Deputies creates the following departments subordinate to its Executive Committee:

Affairs of Cultural and Educational Institutions

Arts

General

Communal Economy

Local Industry

Education

Public Health

Social Insurance

Trade

Finance

Roads

Administration for the Moving Picture Industry

Administration for Light Industry

Administration for Local Fuel Industry

Administration for Agriculture

Administration for the Food Industry

Planning Commission

Personnel Sector under the Chairman of the Executive Committee;

and, in addition, in accordance with the special characteristics of the economy of the Province, and with the approval of the Union-Republican Ministries of Forest Industry, Meat and Dairy Industry, Building Materials Industry, Fishing Industry, Textile Industry, the provincial Soviet of Workers' Deputies may establish departments or administrations for:

Forest Industry

Meat and Dairy Industry

Building Construction Industry

Fishing Industry

Textile Industry

Art. 70. In accordance with the conditions of a province and in conformance with the laws of the USSR and of the UkSSR, the All-Union Ministries, as well as the Union-Republican Ministries of Internal Affairs, State Security, and Justice establish their administrative agencies in the provincial Soviets of Workers' Deputies.

Art. 71. The departments and administrative agencies of a provincial Soviet of Workers' Deputies are responsible in their activity to the provincial Soviet of Workers' Deputies and to its Executive Committee, as well as to the related Ministry of the UkSSR.

Art. 72. The Soviets of Workers' Deputies of administrative regions and their Executive Committees form departments and conduct their affairs on the basis of laws and decrees of the supreme bodies of the UkSSR and of the decisions of provincial Soviets of Workers' Deputies.

Art. 73. A district Soviet of Workers' Deputies creates the following departments subordinate to its Executive Committee:

- General
- Education
- Public health
- Agriculture
- Social insurance
- Trade
- Finance
- Roads
- Planning commission
- Personnel sections under the Chairman of the Executive Committee

Besides the above-mentioned departments and in accordance with special needs of district economy, the district Soviet of Workers' Deputies may create with the approval of the provincial Soviet of Workers' Deputies departments of communal and local industries.

Art. 74. In accordance with the conditions of a district and in conformance with the laws of the USSR and of the UkSSR, and after the approval of the provincial Soviet of Workers' Deputies, the Ministry of Internal Affairs establishes its administrative agencies in the district Soviet of Workers' Deputies.

Art. 75. The departments of a district Soviet of Workers' Deputies are responsible in their activity to the district Soviet of Workers' Deputies and to its Executive Committee, as well as to the related department of the provincial Soviet of Workers' Deputies.

Art. 76. A city Soviet of Workers' Deputies creates the following departments subordinate to its Executive Committee:

- General
- Communal Economy
- Education
- Public Health
- Social Insurance
- Trade
- Finance Planning Commission
- Personnel Section under the Chairman of the Executive Committee

Besides the above-mentioned departments and in accordance with special needs of economy of a city and of its suburbs it may create the following departments:

- Local industry
- Agriculture

Art. 77. The departments of a city Soviet of Workers' Deputies are subordinate in their activity to the city Soviet of Workers' Deputies and to its Executive Committee as well as to the related departments of the district Soviets of Workers' Deputies, or to the related departments of the provincial Soviet of Workers' Deputies.

Art. 78. The departments of the city Soviets of Workers' Deputies of the city of Kiev are subordinate in their activity to the Soviet of Workers' Deputies of the city of Kiev and to its Executive Committee, as well as directly responsible to the related Ministry of the UkSSR.

Art. 79. At the conclusion of the plenary powers of the provincial, district, city, town, village, and hamlet Soviets of Workers' Deputies, their executive and managing bodies retain their authority until the newly elected Soviets of Workers' Deputies establish new executive and managing bodies.

Section VI

Budget of the Ukrainian Soviet Socialist Republic

Art. 80. The state budget of the UkSSR is drawn up by the Council of Ministers of the UkSSR and is submitted by it to the Supreme Soviet of the UkSSR for approval.

After approval of the state budget by the Supreme Soviet of the UkSSR it is published for general information.

Art. 81. The Supreme Soviet of the UkSSR elects the budgetary commission which reports to the Supreme Soviet its conclusions in regard to the state budget of the UkSSR.

Art. 82. A report on the performance of the state budget of the UkSSR is approved by the Supreme Soviet of the UkSSR and is then published for general information.

Art. 83. The budgets of the provincial, administrative region, district, city, and village Soviets include the income from the local economy and a share of the state income received on their territory, and must also include the income from local taxes and levies in amounts established by the laws of the USSR and of the UkSSR.

Section VII

Courts and Prosecuting Magistracy

Art. 84. In the UkSSR justice is administered by the Supreme Court of the UkSSR, the provincial courts, the courts of administrative regions, the people's courts, as well as by the special courts of the Union of the SSR, which are created by a decree of the Supreme Soviet of the USSR.

Art. 85. Except in the cases especially provided for by law, the trial of lawsuits in all courts is conducted with the participation of people's assessors.

Art. 86. The Supreme Court of the UkSSR is the highest judicial organ of the UkSSR.

The Supreme Court of the UkSSR is charged with the responsibility of supervision over the activities of all the other judicial organs of the UkSSR.

Art. 87. The Supreme Court of the UkSSR is elected by the Supreme Soviet of the UkSSR for a term of five years.

Art. 88. The provincial courts and courts of administrative regions are elected by the provincial Soviets of Workers' Deputies or by Soviets of Workers' Deputies of the administrative regions for a term of five years.

Art. 89. The people's courts are elected for a term of three years by secret voting of citizens of a district which is based on general, direct, and equal suffrage.

Art. 90. Judicial proceedings in the UkSSR are conducted in the Ukrainian language. Persons not possessing knowledge of this language have the right of familiarizing themselves with the material of the case through interpreters and also have the right to use their own language in court.

Art. 91. With the exceptions provided for by law, the trial of all lawsuits is public in all the courts of the UkSSR, with the guarantee to an accused of the right of defense.

Art. 92. The judges are independent and are subject to the law only.

Art. 93. The Prosecutor-General of the USSR, directly or through the public prosecutor of the UkSSR, is charged with the supreme supervision over the exact observance of the laws on the territory of the UkSSR by all the Ministries, by the institutions subordinate to them, as well as by public officials, and by all the citizens.

Art. 94. The public prosecutor of the UkSSR is appointed by the Prosecutor-General of the USSR for a term of five years.

Art. 95. The provincial public prosecutors are appointed by the Prosecutor-General of the USSR for a term of five years.

Art. 96. The public prosecutors of administrative regions, districts and cities are appointed by the public prosecutor of the UkSSR, with the approval of the Prosecutor-General of the USSR, for a term of five years.

Art. 97. The agencies of the public prosecutor's office carry out their functions independent of any local bodies whatsoever and are subordinate to the public prosecutor of the USSR only.

Section VIII

Basic Rights and Duties of Citizens

Art. 98. Citizens of the UkSSR have the right to work which means the right to guaranteed employment, with payment for work in accordance with its quantity and quality.

The right to work is insured by the socialist organization of the national economy, by the steady growth of the productive forces of the Soviet society, by the elimination of the possibility of economic crises, and by the liquidation of unemployment.

Art. 99. Citizens of the UkSSR have the right to leisure.

The right to leisure is insured by the establishment of an eight-hour day for factory and office workers, the reduction of the working day to seven or six hours for arduous trades and to four hours in shops where conditions of work are particularly arduous, by the institution of annual vacations with full pay for factory and office workers, and by the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

Art. 100. Citizens of the UkSSR have the right to financial security in old age, as well as in cases of sickness and of loss of ability to work.

These rights are guaranteed by a wide development of social insurance

for workers at the expense of the state, by free medical care of workers, and by placing at the disposal of workers of a wide network of health-resorts.

Art. 101. Citizens of the UkSSR have the right to education.

This right is insured by universal and compulsory elementary education; by free education up to and including the seventh grade; by a system of state stipends for students of higher educational institutions who excel in their studies; by instruction in schools being conducted in the native language; and by the organization in the factories, state farms, machine tractor stations and collective farms of free vocational, technical and agronomist training for the working people.

Art. 102. Women of the UkSSR are accorded equal rights with men in all branches of economic, state, social and political life.

The possibility of exercising these rights of women is insured by affording women equally with men the right to work, payment for work, rest, social insurance, education, state protection of the interests of mother and child, pregnancy leave with pay, and provision of a wide network of maternity homes, nurseries, and kindergartens.

Art. 103. Equality of the rights of citizens of the UkSSR irrespective of their nationality or race in all branches of economic, state, cultural, social, and political life is an indefeasible law.

Direct or indirect restriction of the rights, or, conversely, the establishment of direct, or indirect privileges for citizens on account of their race or nationality, as well as advocacy of racial or national exclusiveness, or hatred and contempt, are punishable by law.

Art. 104. To insure to citizens freedom of conscience, the Church in the UkSSR is separated from the State and the School from the Church. Freedom of worship and freedom of anti-religious propaganda are recognized rights of all citizens.

Art. 105. In accord with the interests of workers, and for the purpose of strengthening the socialist order, citizens of the UkSSR have the following rights guaranteed by law:

- (a) Freedom of Speech;
- (b) Freedom of Press;
- (c) Freedom of Assemblies and Meetings;
- (d) Freedom of Street Processions and Demonstrations.

These rights of citizens are insured by placing at the disposal of workers and their organizations printing establishments, public buildings, streets, means of transportation, and other necessary material means.

Art. 106. In accord with the interests of workers and in order to develop the organizational initiative and political activity of the broad masses, citizens of the UkSSR are guaranteed the right of uniting into the following civilian organizations: professional unions; co-operative unions; youth organizations; sport and defense organizations; cultural, technical, and scientific fraternities; and, in particular, the right of active and informed citizens of working-class origin and from other working strata to join the Ukrainian Communist Party (Bolsheviks), which is the vanguard of workers in their struggle for strengthening and developing of the socialist order and which constitutes the leading core of all workers' civilian and state organizations.

Art. 107. Citizens of the UkSSR are guaranteed the inviolability of the person. No one may be arrested without a court decree or a sanction of a public prosecutor.

Art. 108. The inviolability of citizens' homes and secrecy of correspondence are protected by law.

Art. 109. The UkSSR offers asylum to foreign citizens who are persecuted for defending the interests of workers, for scientific activity, or for the struggle for national liberation.

Art. 110. Every citizen of the UkSSR is obligated to abide by the Constitution of the Ukrainian Soviet Socialist Republic, to obey the laws, to maintain labor discipline, honestly to perform public duties, and to respect the rules of Socialist intercourse.

Art. 111. Every citizen of the UkSSR is obligated to safeguard and to fortify public socialist property as a sacred and inviolable basis of the Soviet system, as a source of wealth and power of the Motherland, and as a source of prosperous and cultural life of all workers.

Persons committing offenses against public socialist property are enemies of the people.

Art. 112. General military service is compulsory under the law.

Military service in the worker-peasant Red Army represents an honorable duty of citizens of the UkSSR.

Art. 113. The defense of the Motherland is a sacred duty of each citizen of the UkSSR. Treason to the Motherland such as violation of the oath of allegiance, desertion to an enemy, weakening the military might of the State, is punished with all the strictness of the law as the gravest crime.

Section IX

Election System

Art. 114. Elections of deputies to all the Soviets of Workers' Deputies, the Supreme Soviet of the Ukrainian Soviet Socialist Republic, to the administrative regional, district, municipal, town, village, and hamlet Soviets of Workers' Deputies, are conducted by the electors on the basis of general, equal, direct and secret suffrage.

Art. 115. Elections of the deputies are general: all citizens of the UkSSR over eighteen years of age have the right to participate in the elections of deputies or be elected, regardless of their race, nationality, educational qualifications, length of residence, social origin, property status, and past activity, with the exception of persons mentally unfit and those sentenced by courts with the deprivation of elective rights.

Art. 116. The elections of deputies are conducted on equal basis: every citizen has one vote and all citizens participate in the elections on an equal footing.

Art. 117. Women have equal rights with men to elect and be elected.

Art. 118. Citizens serving in the armed forces have the right to elect and be elected on equal basis with other citizens.

Art. 119. The elections of deputies are direct: elections to all the Soviets of Workers' Deputies, from a village or a municipal Soviet of Workers' Deputies and including the Supreme Soviet of the UkSSR, are conducted by direct voting of citizens.

Art. 120. The voting for election of the deputies is secret.

Art. 121. Elections to the Soviets of Workers' Deputies of the UkSSR are conducted at election districts in accordance with the following norms:

To a provincial soviet, depending upon the size of the province, one deputy for not less than 15,000 and not more than 30,000 persons;

To a district soviet, one deputy for 1,000 persons; in a district with a population less than 25,000 persons there shall be elected 25 deputies; in a district with a population greater than 60,000 persons there shall be elected not more than 60 deputies;

To a city soviet and ward soviet in cities, depending upon the size of the city or ward—one deputy for not less than 350 persons and not more than 900 persons; in cities and city wards with a population less than 12,000 persons, 35 deputies shall be elected;

To the city soviets of the cities of Kiev and Kharkov—one deputy for 1,000 persons;

To a village soviet—one deputy for 100 persons; in villages with a population of less than 1,000 persons, 9 deputies shall be elected and in villages with a population exceeding 2,500 persons not more than 25 deputies shall be elected.

The electoral norms for each regional, district, city and village Soviet of Workers' Deputies are established by the electoral law for provincial, district, city and village Soviets of Workers' Deputies of the UkSSR within the confines of the elective norms, prescribed in this Article.

Art. 122. The names of the candidates for election are published in the election districts.

The right to propose candidates is insured to public organizations, workers' fraternal organizations, Communist Party organizations, trade unions, co-operatives, youth organizations, and cultural organizations.

Art. 123. Every deputy must give an account of his activity and the activity of a Soviet of Workers' Deputies before the electors and may be recalled at any time upon the decision of a majority of the voters, in accordance with the procedure established by law.

Section X

Emblem, Flag, Capital

Art. 124. The state emblem of the Ukrainian Soviet Socialist Republic consists of a golden sickle and hammer depicted on a red background of sun's rays framed in a wreath of wheat, with the legend over the sickle and hammer "UkSSR" and below the legend "Workers of the World, Unite!"

Art. 125. The state flag of the Ukrainian Soviet Socialist Republic consists of a red fabric, in the upper corner next to the staff of which are shown a golden hammer and sickle and the letters of the UkSSR.

Art. 126. The capital of the Ukrainian Soviet Socialist Republic is the city of Kiev.

Section XI

Method of Amendment of the Constitution

Art. 127. Amendment of the Constitution of the Ukrainian Soviet Socialist Republic is made only upon a decision of the Supreme Soviet of the UkSSR, when approved by votes of at least a two-thirds majority of the members of the Supreme Soviet.

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UNION OF SOUTH AFRICA

SUMMARY

INTERNATIONAL STATUS

The Union of South Africa is a member of the United Nations. It signed the Charter on June 26, 1945. It also signed the United Nations Declaration of January 1, 1942. Its national status dates from the Paris Peace conference of 1919.

It was a member of the League of Nations and signed the Paris Pact of 1928. It signed and ratified the Statute of the Permanent Court of International Justice of 1921 and accepted the Optional Clause. It is a party to the Statute of the International Court of Justice of 1945 and is subject to compulsory jurisdiction under Article 36 of its

Statute.¹ It is a member of the Postal Union and numerous other international organizations.²

The origin of the Union of South Africa is traced to the Cape Colony founded by the Dutch in 1652, occupied by England in 1795, restored to the Batavian Republic in 1803, reoccupied by England in 1806, and definitively ceded to the latter in 1814 by the Peace of Amiens.

Conflicts with the Boer population, the suppression of slavery, and the retreat of the natives from the lands annexed after the sixth Kaffir War, resulted in the Great Trek of the Boers in 1836. They founded the Orange Free State, the Transvaal Republic, and Natal. Natal was annexed to the Cape Colony in 1844. In 1848 the Orange Free State was declared a dependency of the Cape Colony but in 1854 its independence was recognized. From 1889 it formed part of a customs union with the Cape Colony. The Transvaal was guaranteed independence by the British government in 1852, but in 1877 that independence was lost as a result of its struggles with the natives and financial problems. In 1880 the Boers revolted and at the Convention of Pretoria the Transvaal received complete self-government under the suzerainty of the Crown with a British resident and certain rights for the British. In 1884 it was given the title of South African Republic and the British resident and certain controls were removed. However, limitations were placed on its foreign policy. Frictions and disagreements arose for many reasons including the encirclement of the Republic by the protectorates of Bechuanaland, Swaziland and Rhodesia, the Jameson raid; and the question of political rights of the Uitlanders.

The result was the Boer War (1899–1902) which ended with the treaty of Vereeniging which made Crown Colonies of the two republics of the Transvaal and the Orange Free State.

In 1908 a Convention met to formulate a federal Constitution for the colonies in order to join them in a Union.

FORM OF NATIONAL GOVERNMENT

The Constitution of the Union of South Africa is embodied in the South Africa Act of 1909. The government is set up in a federal framework, but in many respects the government is a centralized one.³

¹ See Yearbook of the Court 1947–48, p. 39; also Documents & State Papers, U. S. Dept. of State, June 1948, Vol. 1, No. 3, pp. 192, 203.

² See Table I.

³ See accompanying summary by Senator Edgar H. Brookes. Note also that under provisions of the Statute of Westminster, 1931, which are deemed to be an Act of the South African Parliament under Act No. 69 of 1934 of that Parliament, South African laws are not void for repugnancy to the law of England or to any Act of the United Kingdom Parliament or to any order, rule, or regulation under such Act; the powers of the Parliament of South Africa include the power to repeal or amend any such (UK) Act, in so far as it is a part of the law of South Africa; and no Act of Parliament of the United Kingdom, passed after 11 December 1931, shall extend or be deemed to extend to South Africa as a part of its law unless it is expressly declared in that Act of Parliament that South Africa has requested and consented to its enactment.

SOURCE OF SOVEREIGNTY

"The people of the Union acknowledge the sovereignty and guidance of Almighty God".¹

RIGHTS OF THE PEOPLE

No rights of the people are expressly stated but many practices of British Courts are observed.

LEGISLATIVE DEPARTMENT

Legislative power is vested in Parliament consisting of the King, the Senate and the House of Assembly.² Eight senators are appointed by the Governor-General-in-Council³ and thirty-two are elected on the basis of eight from each province.⁴ The term is for ten years unless Parliament is dissolved before the expiration of that period, in which case the elected senators lose their seats.

Members of the House of Assembly are elected directly by single member constituencies. Members of both houses must be of European descent.⁵ The suffrage on the whole is also limited to such persons, although in the Cape Province people of mixed race with certain property qualifications may vote.⁶

EXECUTIVE DEPARTMENT

Executive power is vested in the King, acting on the advice of His Ministers of State for the Union, and is exercised by the Governor General appointed by him⁷ and his council.⁸ Ministers may not hold office for more than three months unless they are or become members of Parliament.⁹

JUDICIAL DEPARTMENT

Provision is made for a Supreme Court consisting of a Chief Justice of South Africa, the judges of appeal, and the other judges of the several divisions of the Court.¹⁰

AREA, POPULATION, LANGUAGE

South Africa has an area of 472,550 square miles and an estimated population of 11,400,000, of which about 2,000,000 are of European descent. The official languages are English and Afrikaans.¹¹

¹ Const., Art. 1.

² Id., Art. 19.

³ Id., Art. 24.

⁴ Id., Art. 25; see commentary by Senator Brookes, which refers to a total of 44 senators.

⁵ Id., Arts. 26, 44.

⁶ Id., Art. 35.

⁷ Act No. 69 of 1934, Sec. 4.

⁸ Const., Art. 12.

⁹ Id., Art. 14.

¹⁰ Id., Arts. 95, 96, 98.

¹¹ Id., Art. 137.

AN ACT TO CONSTITUTE THE UNION OF SOUTH AFRICA¹

20th September, 1909

SOUTH AFRICA ACT, 1909¹, 9 Edward VII as Amended

WHEREAS it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative union under the Crown of Great Britain and Ireland:

And whereas it is expedient to make provision for the union of the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony on terms and conditions to which they have agreed by resolution of their respective Parliaments, and to define the executive, legislative, and judicial powers to be exercised in the government of the Union:

And whereas it is expedient to make provision for the establishment of provinces with powers of legislation and administration in local matters and in such other matters as may be specially reserved for provincial legislation and administration:

And whereas it is expedient to provide for the eventual admission into the Union or transfer to the Union of such parts of South Africa as are not originally included therein:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

Sovereignty and Guidance of Almighty God acknowledged

1.² The people of the Union acknowledge the sovereignty and guidance of Almighty God.

Definitions

2. In this Act, unless it is otherwise expressed or implied "heirs and successors" shall be taken to mean His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland as determined by the laws relating to the succession of the United Kingdom of Great Britain and Ireland and the words "the Union" shall be taken to mean the Union of South Africa as constituted under this Act, and the

¹ South Africa Act, 1909, 9 Edward VII, Chapter 9, An Act to constitute the Union of South Africa, September 20, 1909, as amended to the end of 1946. The text published by the Government Printer, Pretoria, in 1930, has been changed to conform to amendments in the collection of statutes which the editor was permitted to consult in the South African Legation at Washington. The schedule to the Act is not printed here.

² As substituted by Act No. 9 of 1925.

words "Houses of Parliament", "House of Parliament", or "Parliament", shall be taken to mean the Parliament of the Union.

Application of Act to King's Successors

3. The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.

PART II

THE UNION

Proclamation of Union

4. It shall be lawful for the King, with the advice of the Privy Council, to declare by proclamation that, on and after a date therein appointed, not being later than one year after the passing of this Act, the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony, hereinafter called the Colonies, shall be united in a legislative union under one Government under the name of the Union of South Africa. On and after the day appointed by such proclamation the Government and Parliament of the Union shall have full power and authority within the limits of the Colonies, but the King may at any time after the proclamation appoint a Governor-General for the Union.

Commencement of Act

5. The provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

Incorporation of Colonies into the Union

6. The Colonies mentioned in section *four* shall become original provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal, and Orange Free State, as the case may be. The original provinces shall have the same limits as the respective Colonies at the establishment of the Union.

Application of 58 and 59 Vict., c. 34, etc.

7. Upon any Colony entering the Union, the Colonial Boundaries Act, 1895, and every other Act applying to any of the Colonies as being self-governing Colonies or Colonies with responsible government, shall cease to apply to that Colony, but as from the date when this Act takes effect every such Act of Parliament shall apply to the Union.

PART III

EXECUTIVE GOVERNMENT

Executive Power

[8. The Executive Government of the Union is vested in the King, and shall be administered by His Majesty in person or by a Governor-General as his representative.]¹

¹ This section was repealed by Act No. 69 of 1934, but section 4 of that Act reads as follows:

"The Executive Government of the Union in regard to any aspect of its domestic or external affairs is vested in the King, acting on the advice of His Ministers of State for the Union, and may be administered by His Majesty in person or by a Governor-General as his representative."

Governor-General

9. The Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him.

Salary of Governor-General

10. There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum of ten thousand pounds. The salary of the Governor-General shall not be altered during his continuance in office.

Application of Act to Governor-General

11. The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being or such person as the King may appoint to administer the government of the Union. The King may authorize the Governor-General to appoint any person to be his deputy within the Union during his temporary absence, and in that capacity to exercise for and on behalf of the Governor-General during such absence all such powers and authorities vested in the Governor-General as the Governor-General may assign to him, subject to any limitations expressed or directions given by the King; but the appointment of such deputy shall not affect the exercise by the Governor-General himself of any power or function.

Executive Council

12. There shall be an Executive Council to advise the Governor-General in the government of the Union, and the members of the council shall be chosen and summoned by the Governor-General and sworn as executive councillors, and shall hold office during his pleasure.

Meaning of Governor-General-in-Council

13. The provisions of this Act referring to the Governor-General-in-Council shall be construed as referring to the Governor-General acting with the advice of the Executive Council.

Appointment of Ministers

14.¹ (1) The Governor-General may appoint officers not exceeding twelve in number to administer such departments of State of the Union as the Governor-General-in-Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council and shall be the King's Ministers of State for the Union. After the first general election of members of the House of Assembly, as hereinafter provided, no minister shall hold office for a longer period than three months unless he is or becomes a member of either House of Parliament.

(2) Whenever any Minister of State is from any cause whatever unable to perform any of the functions of his office, the Governor-General-in-Council may appoint any member of the Executive Council (whether

¹ As amended by Acts No. 34 of 1925, No. 17 of 1933 and No. 13 of 1938.

he has or has not been appointed as a Minister of State, under sub-section (1) to act in the said Minister's stead, either generally or in the performance of any particular function.

Appointment and Removal of Officers

15. The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General-in-Council, unless the appointment is delegated by the Governor-General-in-Council or by this Act or by a law of Parliament to some other authority.

Transfer of Executive Powers to Governor-General-in-Council

16. All powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor-in-Council, or in any authority of the Colony, shall, as far as the same continue in existence and are capable of being exercised after the establishment of the Union, be vested in the Governor-General or in the Governor-General-in-Council, or in the authority exercising similar powers under the Union, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be vested in some other authority.

Command of Naval and Military Forces

17. The command-in-chief of the naval and military forces within the Union is vested in the King or in the Governor-General as his representative.

Seat of Government

18. Save as in section *twenty-three* excepted, Pretoria shall be the seat of Government of the Union.

PART IV

PARLIAMENT

Legislative Power

19. The legislative power of the Union shall be vested in the Parliament of the Union, herein called Parliament, which shall consist of the King, a Senate, and a House of Assembly.

Sessions of Parliament

20. The Governor-General may appoint such times for holding the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the House of Assembly simultaneously, or the House of Assembly alone provided that the Senate shall not be dissolved within a period of ten years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any senators nominated by the Governor-General-in-Council.

Summoning of First Parliament

21. Parliament shall be summoned to meet not later than six months after the establishment of the Union.

Annual Session of Parliament

22. There shall be a session of Parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one session and its first sitting in the next session.

Seat of Legislature

23. Capetown shall be the seat of the Legislature of the Union.

SENATE

Original Constitution of Senate

24. For ten years after the establishment of the Union the constitution of the Senate shall, in respect of the original provinces, be as follows:—

(i) Eight senators shall be nominated by the Governor-General-in-Council, and for each original province eight senators shall be elected in the manner hereinafter provided:

(ii) The senators to be nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance, by reason of their official experience, or otherwise, with the reasonable wants and wishes of the coloured races in South Africa. If the seat of a senator so nominated shall become vacant, the Governor-General-in-Council shall nominate another person to be a senator, who shall hold his seat for ten years.

(iii) After the passing of this Act, and before the day appointed for the establishment of the Union, the Governor of each of the Colonies shall summon a special sitting of both Houses of the Legislature, and the two Houses sitting together as one body and presided over by the Speaker of the Legislative Assembly shall elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant, the provincial council of the province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

Subsequent Constitution of Senate

25. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made—

(i) The provisions of the last preceding section with regard to nominated senators shall continue to have effect;

(ii) Eight senators for each province shall be elected by the members of the provincial council of such province together with the members of the House of Assembly elected for such province. Such senators shall hold their seats for ten years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the provincial council of the province, together with the members of the House of Assembly elected for such province, shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General-in-Council shall make regulations for the joint election of senators prescribed in this section.

Qualifications of Senators

26.¹ The qualifications of a senator shall be as follows:
He must—

- (a) Be not less than thirty years of age;
- (b) Be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;
- (c) Have resided for five years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be;
- (d) Be a person of European descent who has acquired Union nationality whether—
 - (i) By birth or
 - (ii) By domicile as a British subject or
 - (iii) By naturalization, or otherwise, in terms of Act 40 of 1927 or of Act 14 of 1932.
- (e) In the case of an elected senator, be the registered owner of immovable property within the Union of the value of not less than five hundred pounds over and above any special mortgages thereon.

For the purposes of this section, residence in, and property situated within, a Colony before its incorporation in the Union shall be treated as residence in and property situated within the Union.

Appointment and Tenure of Office of President

27. The Senate shall, before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate, and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office by writing under his hand addressed to the Governor-General.

Deputy-President

28. Prior to or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

Resignation of Senators

29. A senator may, by writing under his hand addressed to the Governor-General, resign his seat, which thereupon shall become vacant. The Governor-General shall as soon as practicable cause steps to be taken to have the vacancy filled.

Quorum

30. The presence of at least twelve senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Voting in the Senate

31. All questions in the Senate shall be determined by a majority of votes of senators present other than the President or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

¹ As amended by Act No. 69 of 1934.

HOUSE OF ASSEMBLY

Constitution of House of Assembly

32.¹ The House of Assembly shall be composed of

(a) One hundred and fifty members, each of whom shall be directly elected by the persons entitled to vote at an election of such a member in an electoral division delimited as provided in section *forty-one*; and

(b) Three members elected in accordance with the provisions of the Representation of Natives Act, 1936 (Act No. 12 of 1936).

33. *Repealed by Act No. 30 of 1942.*

34. *Repealed by Act No. 30 of 1942.*

Qualifications of Voters

35.² (1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall disqualify any person (other than a native, as defined in section *one* of the Representation of Natives Act, 1936) in the province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered in the province of the Cape of Good Hope by reason of his race or colour only, or disqualify any native, as so defined, who under the said Act would be or might become capable of being registered in the Cape native voters' roll instituted under that Act from being so registered, or alter the number of the members of the House of Assembly who in terms of the said Act may be elected by the persons registered in the said roll, unless the Bill embodying such disqualification or alteration be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(2) No person (other than a native as so defined) who at the passing of any such law is registered as a voter in any province shall be removed from the register by reason only of any disqualification based on race or colour.

Application of Existing Qualifications

36. Subject to the provisions of the last preceding section, the qualifications of parliamentary voters, as existing in the several Colonies at the establishment of the Union, shall be the qualifications necessary to entitle persons in the corresponding provinces to vote for the election of members of the House of Assembly: Provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

Elections

37. (1) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relating to elections for the more numerous Houses of Parliament in such Colonies respectively, the

¹ As amended by Act No. 30 of 1942.

² As amended by Act No. 12 of 1936.

registration of voters, the oaths or declarations to be taken by voters, returning officers, the powers and duties of such officers, the proceedings in connection with elections, election expenses, corrupt and illegal practices, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members, and the proceedings necessary for filling such vacancies, shall, *mutatis mutandis*, apply to the elections in the respective provinces of members of the House of Assembly.

(2) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the House of Assembly, all polls shall be taken on one and the same day in all the electoral divisions throughout the Union, such day to be appointed by the Governor-General-in-Council.

Commission for Delimitation of Electoral Divisions

38. Between the date of the passing of this Act and the date fixed for the establishment of the Union, the Governor-in-Council of each of the Colonies shall nominate a judge of any of the Supreme or High Courts of the Colonies, and the judges so nominated shall, upon acceptance by them respectively of such nomination, form a joint commission, without any further appointment, for the purpose of the first division of the provinces into electoral divisions. The High Commissioner for South Africa shall forthwith convene a meeting of such commission at such time and place in one of the Colonies as he shall fix and determine. At such meeting the Commissioners shall elect one of their number as chairman of such commission. They shall thereupon proceed with the discharge of their duties under this Act, and may appoint persons in any province to assist them or to act as assessors to the commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the commission. The commission may regulate their own procedure and may act by a majority of their number. All moneys required for the payment of the expenses of such commission before the establishment of the Union in any of the Colonies shall be provided by the Governor-in-Council of such Colony. In case of the death, resignation, or other disability of any of the Commissioners before the establishment of the Union, the Governor-in-Council of the Colony in respect of which he was nominated shall forthwith nominate another judge to fill the vacancy. After the establishment of the Union the expenses of the commission shall be defrayed by the Governor-General-in-Council, and any vacancies shall be filled by him.

Electoral Divisions

39. The commission shall divide each province into electoral divisions, each returning one member.

Method of Dividing Provinces into Electoral Divisions

40.¹ (1) For the purposes of any division of the provinces into electoral divisions, the quota of each province shall be obtained by dividing the total number of voters in the province as ascertained from an examination of the current voters' lists by the number of members of the House of Assembly to be elected therein.

¹ As amended by Acts No. 20 of 1940 and No. 10 of 1946.

(2) Each province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of sub-section (3) of this section, contain a number of voters, as nearly as may be, equal to the quota of the province.

(3) The Commissioners shall give due consideration to—

- (a) Community or diversity of interests;
- (b) Means of communication;
- (c) Physical features;
- (d) Existing electoral boundaries;
- (e) Sparsity or density of population;

in such manner that, while taking the quota of voters as the basis of division, the Commissioners may, whenever they deem it necessary, depart therefrom, but in no case to any greater extent than fifteen per centum more or fifteen per centum less than the quota.

Alteration of Electoral Divisions

41.¹ As soon as may be after every census the Governor-General-in-Council shall appoint a commission consisting of three judges of the Supreme Court of South Africa to carry out any re-division which may have become necessary as between the different electoral divisions in each province, and to provide for the allocation of the number of members to which such province may have become entitled under the provisions of this Act. In carrying out such re-division and allocation the commission shall have the powers and proceed upon the principles set forth in sections *thirty-four, thirty-eight, thirty-nine and forty.*

Powers and Duties of Commission for Delimiting Electoral Divisions

42. (1) The joint commission constituted under section *thirty-eight*, and any subsequent commission appointed under the provisions of the last preceding section, shall submit to the Governor-General-in-Council—

- (a) A list of electoral divisions, with the names given to them by the commission and a description of the boundaries of every such division;
- (b) A map or maps showing the electoral divisions into which the provinces have been divided;
- (c) Such further particulars as they consider necessary.

(2) The Governor-General-in-Council may refer to the commission for its consideration any matter relating to such list or arising out of the powers or duties of the commission.

(3) The Governor-General-in-Council shall proclaim the names and boundaries of the electoral divisions as finally settled and certified by the commission, or a majority thereof, and thereafter, until there shall be a re-division, the electoral divisions as named and defined shall be the electoral divisions of the Union in the provinces.

(4) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

Date from which Alteration of Electoral Divisions to Take Effect

43. Any alteration in the number of members of the House of Assembly to be elected in the several provinces, and any re-division of the

¹ As amended by Act No. 30 of 1942.

provinces into electoral divisions, shall, in respect of the election of members of the House of Assembly, come into operation at the next general election held after the completion of the re-division or of any allocation consequent upon such alteration, and not earlier.

Qualifications of Members of House of Assembly

44.¹ The qualifications of a member of the House of Assembly shall be as follows:—

He must—

(a) Be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;

(b) Have resided for five years within the limits of the Union as existing at the time when he is elected;

(c) Be a person of European descent who has acquired Union nationality whether—

(i) By birth or

(ii) By domicile as a British subject or

(iii) By naturalization, or otherwise, in terms of Act 40 of 1927 or of Act 14 of 1932.

For the purposes of this section, residence in a Colony before its incorporation in the Union shall be treated as residence in the Union.

Duration

45. Every House of Assembly shall continue for five years from the first meeting thereof, and no longer, but may be sooner dissolved by the Governor-General.

Appointment and Tenure of Office of Speaker

46. The House of Assembly shall, before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and, as often as the office of Speaker becomes vacant, the House shall again choose a member to be the Speaker. The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing under his hand addressed to the Governor-General.

Deputy-Speaker

47. Prior to or during the absence of the Speaker, the House of Assembly may choose a member to perform his duties in his absence.

48. *Repealed by section forty-nine (1), Act No. 11 of 1926. See subsection (2) thereof.*

Quorum

49. The presence of at least thirty members of the House of Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

Voting in House of Assembly

50. All questions in the House of Assembly shall be determined by a majority of votes of members present other than the Speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

¹ As amended by Act No. 69 of 1934.

BOTH HOUSES OF PARLIAMENT

Oath or Affirmation of Allegiance

51.¹ Every senator and every member of the House of Assembly shall, before taking his seat, make and subscribe before the Governor-General, or some person authorized by him, an oath or affirmation of allegiance in the following form:—

Oath

I, A. B., do swear that I will be faithful and bear true allegiance to His Majesty [*here insert the name of King or Queen as the case may be for the time being*] His [*or Her*] heirs and successors according to law. So help me God.

Affirmation

I, A. B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty [*here insert the name of King or Queen as the case may be for the time being*] His [*or Her*] heirs and successors according to law.

Members of either House disqualified for being Member of the other House

52. A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other House: Provided that every Minister of State who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the House of Assembly, but shall vote only in the House of which he is a member.

Disqualifications for being a Member of either House

53.² No person shall be capable of being chosen or of sitting as a senator or as a member of the House of Assembly who—

(a) Has been at any time convicted of any crime or offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election; or

(b) Is an unrehabilitated insolvent; or

(c) Is of unsound mind, and has been so declared by a competent court; or

(d) Holds any office of profit under the Crown within the Union: Provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this sub-section:

(1) A Minister of State for the Union;

(2) A person in receipt of a pension from the Crown;

(3) An officer or member of His Majesty's naval or military forces on retired or half-pay, or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union;

(4) Any person who has been appointed or became a justice of the peace under section *two* of the Justices of the Peace and Oaths Act, 1914 (Act No. 16 of 1914), and any justice of the peace appointed before the commencement of the said Act, who performs his functions as such by virtue of section *five* of that Act;

(5) Any person who, while the Union is at war, is an officer or member of the military, air or naval forces of the Union or any other force or service established by or under the South Africa Defence Act, 1912 (Act. No. 13 of 1912).

¹ As amended by Act No. 69 of 1934.

² As amended by Acts No. 17 of 1933 and No. 19 of 1940.

Vacation of Seats

54.¹ If a senator or member of the House of Assembly—

(a) Becomes subject to any of the disabilities mentioned in the last preceding section; or

(b) Ceases to be qualified as required by law; or

(c) Fails for a whole ordinary session to attend without the special leave of the Senate or the House of Assembly, as the case may be, unless his absence is due to his serving, while the Union is at war, with the military, air or naval forces of the Union or any other force or service established by or under the South Africa Defence Act, 1912 (Act. No. 13 of 1912);

his seat shall thereupon become vacant.

Penalty for Sitting or Voting when Disqualified

55. If any person who is by law incapable of sitting as a senator or member of the House of Assembly shall, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the Senate or the House of Assembly, he shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote, to be recovered on behalf of the Treasury of the Union by action in any Superior Court of the Union.

Allowances of Members

56.² (1) Subject to the provisions of this section, every member of the Senate and the House of Assembly (excluding Ministers receiving a salary under the Crown, the President of the Senate and the Speaker of the House of Assembly) shall receive an allowance of one thousand pounds per annum.

(1) *bis.* Subject to the provisions of this section other than the provisions of sub-section (2), the Leader of the Opposition shall receive an allowance of one thousand pounds per annum in addition to the allowance provided for in sub-section (1).

(1) *ter.* For the purposes of this section the expression "Leader of the Opposition" shall mean that member of the House of Assembly who is for the time being the Leader in that House of the party in opposition to the Government having the greatest numerical strength in that House and if there is any doubt as to which is or was at any material time the party in opposition to the Government having the greatest numerical strength in the House of Assembly, or as to who is or was at any material time the Leader in that House of such a party, the question shall be decided for the purposes of this section by the Speaker of the House of Assembly, and his decision, certified in writing under his hand, shall be final and conclusive.

(2) For every day during which any such member fails to attend a meeting of the House of which he is a member there shall be deducted the sum of six pounds: Provided that such member shall be exempted from deductions on account of such failure—

(a) For any day on which he attends a meeting of any Committee of the House of which he is a member; and

(b) When his absence is due to his illness or to the summons or subpoena of a competent Court (except a summons to answer a criminal charge upon which he is convicted); and

¹ As amended by Act No. 19 of 1940.

² As amended by Acts No. 51 of 1926, Nos. 19 and 20 of 1940, and No. 21 of 1946.

(c) When his absence is due to the death or serious illness of his wife and such absence is condoned by the Sessional Committee on Standing Orders of the Senate or the Committee on Standing Rules and Orders of the House of Assembly (as the case may be); and

(c) *bis.* When his absence is due to his serving, while the Union is at war, with the military, air or naval forces of the Union or any other force or service established by or under the South Africa Defence Act, 1912 (Act No. 13 of 1912); and

(d) In respect of any further period of absence not exceeding twenty-five days on which he so fails to attend during a session at which the estimates of expenditure for the ordinary administrative services of a financial year are considered.

(3) Subject to the deductions incurred, if any, the Clerk of the House concerned shall pay to every such member of the House of which he is Clerk the allowance aforesaid in monthly instalments, the first month to be reckoned in the case of a senator, from the date on which he was nominated or elected, as the case may be, and, in the case of a member of the House of Assembly, if he was declared elected after a poll had taken place, from the date on which the poll took place, and if he was declared elected because he was the only person duly nominated, from the date on which he was declared elected.

(3) *bis.* There shall be paid to the President of the Senate a salary of two thousand pounds per annum and to the Speaker of the House of Assembly a salary of two thousand five hundred pounds per annum.

(4) The amount of the allowances and salaries paid under this section shall be charged annually to the Consolidated Revenue Fund and the provision of this sub-section shall be deemed to be an appropriation of every such amount.

Privileges of Houses of Parliament

57. The powers, privileges, and immunities of the Senate and of the House of Assembly and of the members and committees of each House shall, subject to the provisions of this Act, be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

Rules of Procedure

58. Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply to the Senate and House of Assembly respectively. If a joint sitting of both Houses of Parliament is required under the provisions of this Act, it shall be convened by the Governor-General by message to both Houses. At any such joint sitting the Speaker of the House of Assembly shall preside and the rules of the House of Assembly shall as far as practicable, apply.

POWERS OF PARLIAMENT

Powers of Parliament

59. Parliament shall have full power to make laws for the peace, order, and good government of the Union.

Money Bills

60. (1) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly. But a Bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

(2) The Senate may not amend any Bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

(3) The Senate may not amend any Bills so as to increase any proposed charges or burden on the people.

Appropriation Bills

61. Any Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

Recommendation of Money Votes

62. The House of Assembly shall not originate or pass any vote, resolution, address, or Bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by message from the Governor-General during the session in which such vote, resolution, address, or Bill is proposed.

Disagreements between the Two Houses

63. If the House of Assembly passes any Bill and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next session again passes the Bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate and shall vote together upon the Bill as last proposed by the House of Assembly and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament: Provided that, if the Senate shall reject or fail to pass any Bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such Bill.

Royal Assent to Bills

64.¹ When a Bill is presented to the Governor-General for the King's Assent, he shall declare according to his discretion, but subject to the provisions of this Act, and to such instructions as may from time to time be given in that behalf by the King, that he assents in the King's name, or

¹ As amended by Act No. 69 of 1934.

that he withholds assent. The Governor-General may return to the House in which it originated any Bill so presented to him, and may transmit therewith any amendments which he may recommend, and the House may deal with the recommendation.

65. *Repealed by Act No. 69 of 1934.*

66. *Repealed by Act No. 69 of 1934.*

Signature and Enrolment of Acts

67.¹ As soon as may be after any law shall have been assented to in the King's name by the Governor-General, the Clerk of the House of Assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

PART V

THE PROVINCES

Administrators

Appointment and Tenure of Office of Provincial Administrators

68. (1) In each province there shall be a chief executive officer appointed by the Governor-General-in-Council, who shall be styled the administrator of the province, and in whose name all executive acts relating to provincial affairs therein shall be done.

(2) In the appointment of the administrator of any province, the Governor-General-in-Council shall, as far as practicable, give preference to persons resident in such province.

(3) Such administrator shall hold office for a term of five years and shall not be removed before the expiration thereof except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(4) The Governor-General-in-Council may from time to time appoint a deputy-administrator to execute the office and functions of the administrator during his absence, illness, or other inability.

Salaries of Administrators

69. The salaries of the administrators shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

Provincial Councils

Constitution of Provincial Councils

70. (1) There shall be a provincial council in each province consisting of the same number of members as are elected in the province for the

¹ As amended by Act No. 69 of 1934.

House of Assembly: Provided that, in any province whose representatives in the House of Assembly shall be less than twenty-five in number, the provincial council shall consist of twenty-five members.

(2) Any person qualified to vote for the election of members of the provincial council shall be qualified to be a member of such council.

Qualification of Provincial Councillors

71. (1) The members of the provincial council shall be elected by the persons qualified to vote for the election of members of the House of Assembly in the province voting in the same electoral divisions as are delimited for the election of members of the House of Assembly: Provided that, in any province in which less than twenty-five members are elected to the House of Assembly, the delimitation of the electoral divisions and any necessary re-allocation of members or adjustment of electoral divisions, shall be effected by the same commission and on the same principles as are prescribed in regard to the electoral divisions for the House of Assembly.

(2) Any alteration in the number of members of the provincial council, and any re-division of the province into electoral divisions, shall come into operation at the next general election for such council held after the completion of such re-division, or of any allocation consequent upon such alteration, and not earlier.

(3) The election shall take place at such times as the administrator shall by proclamation direct, and the provisions of section *thirty-seven* applicable to the election of members of the House of Assembly shall *mutatis mutandis* apply to such elections.

Application of Sections fifty-three to fifty-five to Provincial Councillors

72. The provisions of sections *fifty-three*, *fifty-four*, and *fifty-five*, relative to members of the House of Assembly shall *mutatis mutandis* apply to members of the provincial councils: Provided that any member of a provincial council who shall become a member of either House of Parliament shall thereupon cease to be a member of such provincial council.

Tenure of Office by Provincial Councillors

73.¹ Each provincial council shall continue for five years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

Sessions of Provincial Councils

74. The administrator of each province shall by proclamation fix such times for holding the sessions of the provincial council as he may think fit, and may from time to time prorogue such council: Provided that there shall be a session of every provincial council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the council in one session and its first sitting in the next session.

Chairman of Provincial Councils

75. The provincial council shall elect from among its members a chairman, and may make rules for the conduct of its proceedings. Such

¹ As amended by Act No. 43 of 1935.

rules shall be transmitted by the administrator to the Governor-General, and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof in writing addressed to the administrator.

Allowances of Provincial Councillors

76. The members of the provincial council shall receive such allowances as shall be determined by the Governor-General-in-Council.

Freedom of Speech in Provincial Councils

77. There shall be freedom of speech in the provincial council, and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such council.

Executive Committees

Provincial Executive Committees

78. (1) Each provincial council shall at its first meeting after any general election elect from among its members, or otherwise, four persons to form with the administrator, who shall be chairman, an executive committee for the province. The members of the executive committee other than the administrator shall hold office until the election of their successors in the same manner.

(2) Such members shall receive such remuneration as the provincial council, with the approval of the Governor-General-in-Council, shall determine.

(3) A member of the provincial council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the executive committee.

(4) Any casual vacancy arising in the executive committee shall be filled by election by the provincial council if then in session, or, if the council is not in session, by a person appointed by the executive committee to hold office temporarily pending an election by the council.

Right of Administrator, etc., to take part in Proceedings of Provincial Council

79. The administrator and any other member of the executive committee of a province, not being a member of the provincial council, shall have the right to take part in the proceedings of the council, but shall not have the right to vote.

Powers of Provincial Executive Committees

80. The executive committee shall on behalf of the provincial council carry on the administration of provincial affairs. Until the first election of members to serve on the executive committee, such administration shall be carried on by the administrator. Whenever there are not sufficient members of the executive committee to form a quorum according to the rules of the committee, the administrator shall, as soon as practicable, convene a meeting of the provincial council for the purpose of electing members to fill vacancies, and until such election the administrator shall carry on the administration of provincial affairs.

Transfer of Powers to Provincial Executive Committees

81. Subject to the provisions of this Act, all powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor or the Governor-in-Council, or any Minister of the Colony, shall after such establishment be vested in the executive committee of the province so far as such powers, authorities, and functions relate to matters in respect of which the provincial council is competent to make ordinances.

Voting in Executive Committees

82. Questions arising in the executive committee shall be determined by a majority of votes of the members present, and, in case of an equality of votes, the administrator shall have also a casting vote. Subject to the approval of the Governor-General-in-Council, the executive committee may make rules for the conduct of its proceedings.

Tenure of Office of Members of Executive Committees

83. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers, the executive committee shall have power to appoint such officers as may be necessary, in addition to officers assigned to the province by the Governor-General-in-Council under the provisions of this Act, to carry out the services entrusted to them and to make and enforce regulations for the organization and discipline of such officers.

Power of Administrator to Act on behalf of Governor-General-in-Council

84. In regard to all matters in respect of which no powers are reserved or delegated to the provincial council, the administrator shall act on behalf of the Governor-General-in-Council when required to do so, and in such matters the administrator may act without reference to the other members of the executive committee.

Powers of Provincial Councils

85.¹ Subject to the provisions of this Act and the assent of the Governor-General-in-Council as hereinafter provided, the provincial council may make ordinances in relation to matters coming within the following classes of subjects (that is to say):—

(i) Direct taxation within the province in order to raise a revenue for provincial purposes:

(ii) The borrowing of money on the sole credit of the province with the consent of the Governor-General-in-Council and in accordance with regulations to be framed by Parliament:

(iii) Education, other than higher education, for a period of five years and thereafter until Parliament otherwise provides:

(iv) Agriculture to the extent and subject to the conditions to be defined by Parliament:

(v) The establishment, maintenance, and management of hospitals and charitable institutions:

¹ As amended by Act No. 1 of 1926.

(vi) Municipal institutions, divisional councils, and other local institutions having authority and functions in any area in respect of the local government of, or the preservation of public health in, that area, including any such body as is referred to in section seven of the Public Health Act, 1919 (Act No. 36 of 1919):

(vii) Local works and undertakings within the province, other than railways and harbours and other than such works as extend beyond the borders of the province, and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the provincial council or otherwise:

(viii) Roads, outspans, ponts, and bridges, other than bridges connecting two provinces:

(ix) Markets and pounds:

(x) ¹ Fish and game preservation:

(xi) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section:

(xii) Generally all matters which, in the opinion of the Governor-General-in-Council, are of a merely local or private nature in the province:

(xiii) All other subjects in respect of which Parliament shall by any law delegate the power of making ordinances to the provincial council.

Effect of Provincial Ordinances

86. Any ordinance made by a provincial council shall have effect in and for the province as long and as far only as it is not repugnant to any Act of Parliament.

Recommendations to Parliament

87. A provincial council may recommend to Parliament the passing of any law relating to any matter in respect of which such council is not competent to make ordinances.

Power to Deal with Matters Proper to be Dealt with by Private Bill Legislation

88. In regard to any matter which requires to be dealt with by means of a private Act of Parliament, the provincial council of the province to which the matter relates may, subject to such procedure as shall be laid down by Parliament, take evidence by means of a Select Committee or otherwise for and against the passing of such law, and, upon receipt of a report from such council, together with the evidence upon which it is founded, Parliament may pass such Act without further evidence being taken in support thereof.

Constitution of Provincial Revenue Fund

89.² (1) A provincial revenue fund shall be formed in every province, into which shall be paid all revenues raised by or accruing to the provincial council and all moneys paid over by the Governor-General-in-Council to the provincial council. Such fund shall be appropriated by the provincial council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-

¹ Repealed by Act No. 10 of 1940 in so far as it relates to sea fisheries.

² As amended by Act No. 39 of 1945.

General-in-Council for particular purposes, then for such purposes but no such ordinance shall be passed by the provincial council unless the administrator shall have first recommended to the council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the provincial revenue fund except in accordance with such appropriation and under warrant signed by the administrator: Provided that, until the expiration of one month after the first meeting of the provincial council, the administrator may expend such moneys as may be necessary for the services of the province.

(2) The administrator of a province may, subject to the laws relating to education, authorize every educational institution in the province which is specified in a list published by the Governor-General by proclamation in the *Gazette*, to retain and apply such of its revenues and other moneys received by it, as the Administrator may from time to time determine, for the purpose of meeting its expenditure, and such revenues and other moneys shall, notwithstanding the provisions of subsection (1), not be paid into the provincial revenue fund, but shall be accounted for and dealt with as the administrator may prescribe.

Assent to Provincial Ordinances

90. When a proposed ordinance has been passed by a provincial council it shall be presented by the administrator to the Governor-General-in-Council for his assent. The Governor-General-in-Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until, within one year from the day on which it was presented to the Governor-General-in-Council, he makes known by proclamation that it has received his assent.

Effect and Enrolment of Ordinances

91. An ordinance assented to by the Governor-General-in-Council and promulgated by the administrator shall, subject to the provisions of this Act, have the force of law within the province. The administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of such ordinance, and, in case of conflict between the two copies thus deposited, that signed by the Governor-General shall prevail.

Miscellaneous

Audit of Provincial Accounts

92. (1) In each province there shall be an auditor of accounts to be appointed by the Governor-General-in-Council.

(2) No such auditor shall be removed from office except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(3) Each such auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council, with the approval of Parliament, shall determine.

(4) Each such auditor shall examine and audit the accounts of the province to which he is assigned subject to such regulations and orders as may be framed by the Governor-General-in-Council and approved by Parliament, and no warrant signed by the administrator authorizing the issuing of money shall have effect unless countersigned by such auditor.

Continuation of Powers of Divisional and Municipal Councils

93. Notwithstanding anything in this Act contained, all powers, authorities, and functions lawfully exercised at the establishment of the Union by divisional or municipal councils, or any other duly constituted local authority, shall be and remain in force until varied or withdrawn by Parliament or by a provincial council having power in that behalf.

Seats of Provincial Government

94. The seats of provincial government shall be—

For the Cape of Good Hope.....	Capetown.
For Natal	Pietermaritzburg.
For the Transvaal.....	Pretoria.
For the Orange Free State.....	Bloemfontein.

PART VI

THE SUPREME COURT OF SOUTH AFRICA

Constitution of Supreme Court

95. There shall be a Supreme Court of South Africa consisting of a Chief Justice of South Africa, the judges of appeal, and the other judges of the several divisions of the Supreme Court of South Africa in the provinces.

Appellate Division of Supreme Court

96.¹ There shall be an appellate division of the Supreme Court of South Africa consisting of the Chief Justice of South Africa and four judges of appeal.

Filling of Temporary Vacancies in Appellate Division

97.² Whenever for any reason it is expedient to do so, the Governor-General may appoint some fit and proper person to act as a judge of any division of the Supreme Court of South Africa in the place of any judge of that division or in addition to the judges of that division: Provided that no person other than a judge of the said Supreme Court shall be appointed to act as the Chief Justice of South Africa or as a judge of appeal.

Constitution of Provincial and Local Divisions of Supreme Court

98. (1) The several supreme courts of the Cape of Good Hope, Natal, and the Transvaal, and the High Court of the Orange River Colony shall,

¹ As amended by Act No. 12 of 1920.

² As amended by Acts No. 12 of 1920 and No. 41 of 1941.

on the establishment of the Union, become provincial divisions of the Supreme Court of South Africa within their respective provinces, and shall each be presided over by a judge-president.

(2) The court of the eastern district of the Cape of Good Hope, the High Court of Griqualand, the High Court of Witwatersrand, and the several circuit courts, shall become local divisions of the Supreme Court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(3) The said provincial and local divisions, referred to in this Act as superior courts, shall, in addition to any original jurisdiction exercised by the corresponding courts of the Colonies at the establishment of the Union, have jurisdiction in all matters—

(a) In which the Government of the Union or a person suing or being sued on behalf of such Government is a party:

(b) In which the validity of any provincial ordinance shall come into question.

(4) Unless and until Parliament shall otherwise provide, the said superior courts shall *mutatis mutandis* have the same jurisdiction in matters affecting the validity of elections of members of the House of Assembly and provincial councils as the corresponding courts of the Colonies have at the establishment of the Union in regard to parliamentary elections in such Colonies respectively.

Continuation in Office of Existing Judges

99. All judges of the supreme courts of the Colonies, including the High Court of the Orange River Colony, holding office at the establishment of the Union shall on such establishment become judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union. The Chief Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges-President of the divisions of the Supreme Court in the respective provinces, but shall so long as they hold that office retain the title of Chief Justice of their respective provinces.

Appointment and Remuneration of Judges

100.¹ The Chief Justice of South Africa, the judges of appeal, and all other judges of the Supreme Court of South Africa to be appointed after the establishment of the Union, shall be appointed by the Governor-General-in-Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be diminished during their continuance in office.

Tenure of Office by Judges

101. The Chief Justice of South Africa and other judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General-in-Council on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

¹ As amended by Act No. 12 of 1920.

Reduction in Number of Judges

102. Upon any vacancy occurring in any division of the Supreme Court of South Africa, other than the Appellate Division, the Governor-General-in-Council may, in case he shall consider that the number of judges of such court may with advantage to the public interests be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

Appeals to Appellate Division

103.¹ (1) In every civil case in which, according to the law in force at the establishment of the Union, an appeal might have been made to the Supreme Court of any of the Colonies from a superior court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division, except in cases of orders or judgments given by a single judge, upon applications by way of motion or petition or on summons for provisional sentence or judgments as to costs only, which by law are left to the discretion of the court. The appeal from any such orders or judgments shall be made to the provincial division corresponding to the court which before the establishment of the Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such provincial division except to the Appellate Division, and then only if such provincial division shall have given special leave to appeal: Provided that if such provincial division shall have refused special leave to appeal, the Appellate Division may, on application being made thereto, grant such special leave and may vary any order as to costs made by such provincial division in refusing such special leave.

(2) If any court grants special leave to appeal under the provisions of sub-section (1) the court may order the appellant to find security for the costs of appeal in such an amount as may be fixed by such court and may fix the time within which such security shall be found.

Existing Appeals

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the Supreme Court of any of the Colonies or from the High Court of the Orange River Colony to the King-in-Council, the appeal shall be made only to the Appellate Division: Provided that the right of appeal in any civil suit shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in such suit.

Appeals from Inferior Courts to Provincial Divisions

105.¹ (1) In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from a court of resident magistrate or other inferior court to a superior court in any of the Colonies, the appeal shall be made to the corresponding division of the Supreme Court of South Africa; but there shall be no further appeal against any judgment given on appeal by such division except to the Appellate Division, and then only if such corresponding division shall have given special leave to appeal: Provided that if such corresponding

¹ As amended by Act No. 46 of 1935.

division shall have refused special leave to appeal, the Appellate Division may, on application being made thereto, grant such special leave and may vary any order as to costs made by such corresponding division in refusing such special leave.

(2) If any court grants special leave to appeal under the provisions of sub-section (1) the court may order the appellant to find security for the costs of appeal in such an amount as may be fixed by such court and may fix the time within which such security shall be found.

Provisions as to Appeals to the King-in-Council

106. There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King-in-Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but Bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure: Provided that nothing in this section shall affect any right of appeal to His Majesty-in-Council from any judgment given by the Appellate Division of the Supreme Court under or in virtue of the Colonial Courts of Admiralty Act, 1890.

Rules of Procedure in Appellate Division

107.¹ The Chief Justice of South Africa and the judges of appeal may, subject to the approval of the Governor-General-in-Council, make rules for the conduct of the proceedings of the Appellate Division and prescribing the time and manner of making appeals thereto. Until such rules shall have been promulgated, the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply.

Rules of Procedure in Provincial and Local Divisions

108. The Chief Justice and other judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General-in-Council, frame rules for the conduct of the proceedings of the several provincial and local divisions. Until such rules shall have been promulgated, the rules in force at the establishment of the Union in the respective courts which become divisions of the Supreme Court of South Africa shall continue to apply therein.

Place of Sittings of Appellate Division

109. The Appellate Division shall sit in Bloemfontein, but may from time to time for the convenience of suitors hold its sittings at other places within the Union.

Quorum for Hearing Appeals

110.² (1) On the hearing of an appeal from a court consisting of a single judge, three judges of the Appellate Division shall form a quorum; and on the hearing of an appeal from a court consisting of two or more judges, four judges of the Appellate Division shall form a quorum:

¹ As amended by Act No. 12 of 1920.

² As amended by Act No. 11 of 1927.

Provided that if four judges of the Appellate Division sit to hear an appeal and are equally divided as to any judgment or order, or part thereof, to be given on appeal, any part of the judgment or order of the court from which the appeal is made, in respect whereof such judges are so divided, shall stand and shall be deemed to be the judgment or order of the Appellate Division:

Provided, further, that the costs arising out of any matter in respect whereof such judges are so divided shall be awarded to the party in whose favour such matter was decided by the court from which the appeal is made, subject to the power of such judges, or three of them, to make any other order as to the costs which they may deem equitable.

(2) If after argument on an appeal has been heard a judge who sat at the hearing dies or retires, or becomes otherwise incapable of acting before judgment has been given on the appeal, then—

(a) If the argument was heard before three judges, the judgments of the two remaining judges if in agreement; or

(b) If the argument was heard before four judges, the judgments of the three remaining judges if in agreement; or

(c) If the argument was heard before five judges, the judgments of the four remaining judges if in agreement, or of any three of them which are in agreement,

shall be the judgment of the Court.

(3) No judge shall sit in the hearing of an appeal against a judgment or order given in a case which was heard before him.

Jurisdiction of Appellate Division

111. The process of the Appellate Division shall run throughout the Union, and all its judgments or orders shall have full force and effect in every province and shall be executed in like manner as if they were original judgments or orders of the provincial division of the Supreme Court of South Africa in such province.

Execution of Processes of Provincial Divisions

112. The registrar of every provincial division of the Supreme Court of South Africa, if thereto requested by any party in whose favour any judgment or order has been given or made by any other division, shall, upon the deposit with him of an authenticated copy of such judgment or order and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is registrar.

Transfer of Suits from one Provincial or Local Division to another

113. Any provincial or local division of the Supreme Court of South Africa to which it may be made to appear that any civil suit pending therein may be more conveniently or fitly heard or determined in another division, may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

Registrar and Officers of Appellate Division

114. The Governor-General-in-Council may appoint a registrar of the Appellate Division and such other officers thereof as shall be required for the proper dispatch of the business thereof.

Advocates and Attorneys

115. (1) The laws regulating the admission of advocates and attorneys to practise before any superior court of any of the Colonies shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the corresponding division of the Supreme Court of South Africa.

(2) All advocates and attorneys entitled at the establishment of the Union to practise in any superior court of any of the Colonies shall be entitled to practise as such in the corresponding division of the Supreme Court of South Africa.

(3) All advocates and attorneys entitled to practise before any provincial division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division.

Pending Suits

116. All suits, civil or criminal, pending in any superior court of any of the Colonies at the establishment of the Union shall stand removed to the corresponding division of the Supreme Court of South Africa, which shall have jurisdiction to hear and determine the same, and all judgments and orders of any superior court of any of the Colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the Supreme Court of South Africa. All appeals to the King-in-Council which shall be pending at the establishment of the Union shall be proceeded with as if this Act had not been passed.

PART VII

FINANCE AND RAILWAYS

Constitution of Consolidated Revenue Fund and
Railway and Harbour Fund

117. All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation, shall vest in the Governor-General-in-Council. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of the railways, ports, and harbours, and such fund shall be appropriated by Parliament to the purposes of the railways, ports, and harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into which shall be paid all other revenues raised or received by the Governor-General-in-Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act, and subject to the charges imposed thereby.

Commission of Inquiry into Financial Relations
between Union and Provinces

118. The Governor-General-in-Council shall, as soon as may be after the establishment of the Union, appoint a commission, consisting of one

representative from each province, and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the provinces. Pending the completion of that inquiry and until Parliament otherwise provides, there shall be paid annually out of the Consolidated Revenue Fund to the administrator of each province—

(a) An amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year, 1908-09, as voted by the Legislature of the corresponding colony during the year nineteen hundred and eight;

(b) Such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the provinces respectively.

Until such inquiry shall be completed and Parliament shall have made other provisions, the executive committees in the several provinces shall annually submit estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any executive committee which is not provided for in such approved estimates.

Security for Existing Public Debts

119. The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form a first charge on the Consolidated Revenue Fund.

Requirements for Withdrawal of Money from Funds

120. No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under appropriation made by law. But, until the expiration of two months after the first meeting of Parliament the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service, and for railway and harbour administration respectively.

Transfer of Colonial Property to the Union

121. All stocks, cash, bankers' balances, and securities for money belonging to each of the Colonies at the establishment of the Union shall be the property of the Union: Provided that the balances of any funds raised at the establishment of the Union by law for any special purposes in any of the Colonies shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

Crown Lands, etc.

122. Crown lands, public works, and all property throughout the Union, movable or immovable, and all rights of whatever description belonging to the several Colonies at the establishment of the Union, shall vest in the Governor-General-in-Council subject to any debt or liability specifically charged thereon.

Mines and Minerals

123. All rights in and to mines and minerals, and all rights in connection with the searching for, working for, or disposing of, minerals (or

precious stones), which at the establishment of the Union are vested in the Government of any of the Colonies, shall on such establishment vest in the Governor-General-in-Council.

Assumption by Union of Colonial Debts

124. The Union shall assume all debts and liabilities of the Colonies existing at its establishment, subject, notwithstanding any other provision contained in this Act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund, and other charges conferred on the creditors of any of the Colonies, and may, subject to such conditions and rights, convert, renew, or consolidate such debts.

Ports, Harbours, and Railways

125. All ports, harbours, and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General-in-Council. No railway for the conveyance of public traffic, and no port, harbour, or similar work, shall be constructed without the sanction of Parliament.

Constitution of Harbour and Railway Board

126. Subject to the authority of the Governor-General-in-Council, the control and management of the railways, ports, and harbours of the Union shall be exercised through a board consisting of not more than three commissioners, who shall be appointed by the Governor-General-in-Council, and a minister of State, who shall be chairman. Each commissioner shall hold office for a period of five years, but may be re-appointed. He shall not be removed before the expiration of his period of appointment, except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective terms of office.

Administration of Railways, Ports, and Harbours

127.¹ The railways, ports, and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of all provinces of the Union. So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working maintenance, betterment, depreciation, and the payment of interest due on capital not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections *one hundred and thirty* and *one hundred and thirty-one*. The amount of interest due on such capital invested shall be paid over from

¹ Administration now governed by Act No. 22 of 1916, as amended.

the Railway and Harbour Fund into the Consolidated Revenue Fund. The Governor-General-in-Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union. During such period, if the revenues accruing to the Consolidated Revenue Fund are insufficient to provide for the general service of the Union, and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein, Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund.

Establishment of Fund for Maintaining Uniformity of Railway Rates

128. Notwithstanding anything to the contrary in the last preceding section, the Board may establish a fund out of railway and harbour revenue to be used for maintaining, as far as may be, uniformity of rates notwithstanding fluctuations in traffic.

Management of Railway and Harbour Balances

129. All balances standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Board, and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

Construction of Harbour and Railway Works

130. Every proposal for the construction of any port or harbour works or of any line of railway, before being submitted to Parliament, shall be considered by the Board, which shall report thereon, and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance, and of interest on the capital invested therein, it shall frame an estimate of the annual loss which, in its opinion, will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund: Provided that, if in any year the actual loss incurred, as calculated by the Board and certified by the Controller and Auditor-General, is less than the estimate framed by the Board, the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line, the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

Making Good of Deficiencies in Railway Fund in Certain Cases

131. If the Board shall be required by the Governor-General-in-Council or under any Act of Parliament or resolution of both Houses of

Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General, showing, as nearly as can be ascertained, the amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

132. *Repealed by section one, Act No. 21 of 1911.*

Compensation of Colonial Capitals for Diminution of Prosperity

133. In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form or diminution of prosperity or decreased rateable value by reason of their ceasing to be seats of government of their respective Colonies, there shall be paid from the Consolidated Revenue Fund for a period not exceeding twenty-five years to the municipal councils of such towns a grant of two per centum per annum on their municipal debts, as existing on the thirty-first day of January nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. The Commission appointed under section *one hundred and eighteen* shall, after due inquiry, report to the Governor-General-in-Council what compensation should be paid to the municipal councils of Capetown and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the Consolidated Revenue Fund for a period not exceeding twenty-five years, and shall not exceed one per centum per annum on the respective municipal debts of such towns existing on the thirty-first January nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. For the purposes of this section Capetown shall be deemed to include the municipalities of Capetown, Green Point and Sea Point, Woodstock, Mowbray and Rondebosch, Claremont, and Wynberg, and any grant made to Capetown shall be payable to the councils of such municipalities in proportion to their respective debts. One half of any such grants shall be applied to the redemption of the municipal debts of such towns respectively. At any time after the tenth annual grant has been paid to any of such towns the Governor-General-in-Council, with the approval of Parliament, may after due inquiry withdraw or reduce the grant to such town.

PART VIII

GENERAL

Method of Voting for Senators, etc.

134. The election of senators and of members of the executive committees of the provincial councils as provided in this Act shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote. The Governor-General-in-Council, or, in the case of the first election of the Senate, the Governor-in-Council of each of the Colonies, shall frame regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith, and such regulations or any amendments thereof after being duly promulgated shall

have full force and effect unless and until Parliament shall otherwise provide.

Continuation of Existing Colonial Laws

135. Subject to the provisions of this Act, all laws in force in the several Colonies at the establishment of the Union shall continue in force in the respective provinces until repealed or amended by Parliament, or by the provincial councils in matters in respect of which the power to make ordinances is reserved or delegated to them. All legal commissions in the several Colonies at the establishment of the Union shall continue as if the Union had not been established.

Free Trade throughout the Union

136. There shall be free trade throughout the Union, but until Parliament otherwise provides the duties of custom and of excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

Equality of English and Dutch Languages

137. Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights, and privileges; all records, journals, and proceedings of Parliament shall be kept in both languages, and all Bills, Acts, and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

Naturalization

138. All persons who have been naturalized in any of the Colonies shall be deemed to be naturalized throughout the Union.

Administration of Justice

139.¹ The administration of justice throughout the Union shall be under the control of the Minister of State, in whom shall be vested all powers, authorities, and functions which shall at the establishment of the Union be vested in the Attorneys-General of the Colonies.

Existing Officers

140. Subject to the provisions of the next succeeding section, all officers of the public service of the Colonies shall at the establishment of the Union become officers of the Union.

Reorganization of Public Departments

141. (1) As soon as possible after the establishment of the Union, the Governor-General-in-Council shall appoint a public service commission to make recommendations for such reorganization and readjustment of the departments of the public service as may be necessary. The commission shall also make recommendations in regard to the assignment of officers to the several provinces.

(2) The Governor-General-in-Council may after such commission has reported assign from time to time to each province such officers as may be

¹ As amended by Act No. 39 of 1926.

necessary for the proper discharge of the services reserved or delegated to it, and such officers on being so assigned shall become officers of the province. Pending the assignment of such officers, the Governor-General-in-Council may place at the disposal of the provinces the services of such officers of the Union as may be necessary.

(3) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board, or to any person holding office under the Board.

Public Service Commission

142. After the establishment of the Union the Governor-General-in-Council shall appoint a permanent public service commission with such powers and duties relating to the appointment, discipline, retirement, and superannuation of public officers as Parliament shall determine.

Pensions of Existing Officers

143. Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or assigned to that of a province shall be entitled to receive such pension, gratuity, or other compensation as he would have received in like circumstances if the Union had not been established.

Tenure of Office of Existing Officers

144. Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or assigned to that of a province shall retain all his existing and accruing rights, and shall be entitled to retire from the service at the time at which he would have been entitled by law to retire, and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

Existing Officers not to be Dismissed for Ignorance of English or Dutch

145. The services of officers in the public service of any of the Colonies at the establishment of the Union shall not be dispensed with by reason of their want of knowledge of either the English or Dutch language.

Compensation to Existing Officers who are not Retained

146. Any permanent officer of the Legislature of any of the Colonies who is not retained in the service of the Union, or assigned to that of any province, and for whom no provision shall have been made by such Legislature, shall be entitled to such pension, gratuity, or compensation as Parliament may determine.

Administration of Native Affairs, etc.

147. The control and administration of native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the Governor-General-in-Council, who shall exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs, and any lands vested in the Governor or Governor and Executive Council of any

Colony for the purpose of reserves for native locations shall vest in the Governor-General-in-Council, who shall exercise all special powers in relation to such reserves as may hitherto have been exercisable by any such Governor or Governor and Executive Council, and no lands set aside for the occupation of natives which cannot at the establishment of the Union be alienated except by an Act of the Colonial Legislature shall be alienated or in any way diverted from the purposes for which they are set apart except under the authority of an Act of Parliament.

Devolution on Union of Rights and Obligations under Conventions

148. (1) All rights and obligations under any conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

(2) The provisions of the railway agreement between the Governments of the Transvaal, the Cape of Good Hope, and Natal, dated the second of February, nineteen hundred and nine, shall, as far as practicable, be given effect to by the Government of the Union.

PART IX

NEW PROVINCES AND TERRITORIES

Alteration of Boundaries of Provinces

149.¹ Parliament shall not—

(a) Alter the boundaries of any province, divide a province into two or more provinces, or form a new province out of provinces within the Union, except on the petition of the provincial council of every province whose boundaries are affected thereby;

(b) Abolish any provincial council or abridge the powers conferred on provincial councils under section *eighty-five*, except by petition to Parliament by the provincial council concerned.

Power to Admit into Union Territories administered by British South Africa Company

150. The King, with the advice of the Privy Council, may on addresses from the Houses of Parliament of the Union admit into the Union the territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are expressed in the addresses and approved by the King, and the provisions of any Order-in-Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

Power to Transfer to Union Government of Native Territories

151. The King, with the advice of the Privy Council, may, on addresses from the Houses of Parliament of the Union, transfer to the Union the Government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the protection of His Majesty, and inhabited wholly or in part by natives, and upon such transfer the Governor-General-in-Council may undertake the government of such territory upon the terms and conditions embodied in the Schedule to this Act.

¹ As amended by Act No. 45 of 1934.

PART X

AMENDMENT OF ACT

152. Parliament may by law repeal or alter any of the provisions of this Act: Provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered: And provided further that no repeal or alteration of the provisions contained in this section, or in sections *thirty-three* and *thirty-four* (until the number of members of the House of Assembly has reached the limit therein prescribed, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period), or in sections *thirty-five* and *one hundred and thirty-seven*, shall be valid unless the Bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

PART XI ¹

SUPPLEMENTARY

Short Title

153. This Act may be cited as the South Africa Act, 1909.

COMMENTARY ON THE CONSTITUTION OF THE UNION OF SOUTH AFRICA

by

Senator Edgar H. Brookes, K.E.S., M.A., D.Litt²

The Constitution of the Union of South Africa is embodied in an Act of the British Parliament known as the South Africa Act, 9 Edward VII (compare the Constitution of Canada embodied in the British North America Act, 1867). Although a written Constitution, it is with one or two exceptions completely flexible and like the Constitution of Great Britain itself, can be amended by the ordinary process of legislation. It must thus be contrasted with Constitutions such as those of the United States of America, Australia or Canada.

At the outset it should be said that the Union of South Africa is not a federation in any real sense of the term. It was formed from the four Colonies of the Cape of Good Hope, Natal, the Transvaal and the Orange River Colony. These four colonies became the original provinces of the

¹ Added by Act No. 9 of 1925.

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Union retaining their boundaries and their names with the exception of the Orange River Colony, which reverted to its old Republican designation of the Orange Free State. But though these provinces are the successors-in-law of the old colonies, they have, in fact, no autonomous status. They may at any time be abolished by the Union Parliament. Their legislation may be vetoed by the Union Government. Their chief Executive Officer, the Administrator, is appointed by the Union Government. They have no exclusive powers of legislation. Any Provincial Ordinance in conflict with an Act of the Union Parliament is overridden to the extent of the conflict. The provinces have no independent judiciary and even their administrative officers may be regarded ultimately as parts of the Union Public Service. So far, therefore, from being States after the American or Australian pattern or even provinces after the Canadian pattern, they are to be regarded in legal and constitutional status simply as unusually large organs of local government.

The Union Constitution follows the model of Great Britain more closely than that of any other Dominion or Colony, with the possible exception of New Zealand. It follows that the Union Parliament is a sovereign law-making body like the British Parliament and unlike the Australian or Canadian federal legislature. Its acts cannot be questioned in any court of law, and internationally it may, to use the famous phrase first employed by Lord Balfour, be regarded as "equal in status though unequal in stature" to the British Parliament. The Parliament of the Union is defined in the Constitution (on the analogy of King, Lords and Commons) as consisting of "the King, a Senate and a House of Assembly." The King is represented in the Union by a Governor-General, who is the official head of the State, and whose assent is required to every Bill before it can become an Act of Parliament. This assent is in practice never refused. The Governor-General is appointed by the King in consultation with his South African Government. He is the King's personal representative in the Union, but since the passing of the Statute of Westminster in 1926, he is not the representative of the British Government, which appoints its own High Commissioner with diplomatic status. During recent years the Governor-General has been a South African and it is probable that this will become a fixed convention of the Constitution.

The Senate of the Union consists of forty-four members. Thirty-two of these are elected, eight from each of the four Provinces by Electoral Colleges consisting in each case of the members of the House of Assembly in the Province concerned and the members of the Provincial Council of the Province. Elections are on the principle of proportional representation. Eight Senators are nominated by the Governor-General-in-Council (that is in practice by the Union Government). Of these eight, four are to be selected "on the ground mainly of their thorough acquaintance by reason of their official experience or otherwise with the reasonable wants and wishes of the coloured races in South Africa." In addition, four Senators are elected by the Native African races by an elaborate process of indirect election in which chiefs, local councils and other special boards play a part. Normal tenure of office of Senators is for the life of the Senate, which in ordinary circumstances is ten years. The Senate, however, may be dissolved before the expiration of the ten year period, either concurrently with the House of Assembly, or within 120 days of the dissolution of the House of Assembly, but not otherwise. (See the Senate

Act, 1929). Senators elected by the Native people sit for five years and are not affected by dissolution.

It should be mentioned here that membership of both Houses of Parliament and of Provincial Councils is strictly limited to persons "of European descent". Even the representatives directly elected by the Native people must themselves be white men.

The House of Assembly consists of 153 members who are elected by single-member constituencies by the ordinary process of direct election. Three of these members are chosen by Native African voters possessing a moderate income and educational qualification and living in the Province of the Cape of Good Hope. African Natives possess no franchise except an indirect vote for the Senate in other Provinces. Any other non-European voters (see below) are included along with the European voters in the ordinary process of election. Proportional representation is not used.

So far as the white population is concerned, the principle of adult suffrage applies throughout the Union. "Coloured" voters (that is in the South African usage of the term, people of mixed race) and Indians may qualify for the franchise in the Cape of Good Hope, if they are males possessing or renting property to the value of £75 or earning £50 per annum and if they can sign their name and write their address and occupation. In the Province of Natal, coloured voters may come onto roll with a slightly higher qualification but the large Indian population of that Province has no franchise whatever. In the Transvaal and Orange Free State voting power is restricted to whites. These differences represent historical divergencies of the policies of the republics and colonies prior to Union—divergencies of outlook so deep that after thirty-three years of Union it is still impossible to arrive at any uniformity of policy.

The maximum duration of the House of Assembly is five years, but it may be dissolved sooner by the Governor-General; in fact the Governor-General, following British practice, acts on the advice of his Ministers in exercising the prerogative of dissolution. The practice is usually to dissolve before the expiration of the five years.

When the two Houses do not agree on legislation, after the usual methods of exchanging messages have been exhausted, the remedy used is that of the joint sitting, the decision of which is final. Joint sittings may not take place until after a Bill has been twice rejected by the Senate or amended by it with amendments with which the House of Assembly has not agreed, but in the case of the annual provision of money for expenditure a joint sitting may be held forthwith. The Senate's powers of amending money Bills are severely restricted and, in fact, almost non-existent.

The Executive Government of the Union follows closely on the lines of Great Britain, the Governor-General corresponding to the King. There is an Executive Council corresponding to the Privy Council. The real power in South Africa, as in England, rests in the Cabinet, which is drawn from the party or coalition of parties holding the majority in the House of Assembly. Should it lose the confidence of the House of Assembly, the Cabinet resigns. This, together with most other rules affecting the Cabinet, is, as in England, a matter of convention or custom, rather than of strict law. The Cabinet is headed by a Prime Minister, and there are eleven other Ministers holding various other portfolios. Minis-

ters must be, or within three months of appointment, become members of one or other House of Parliament. They may sit or speak in either House, but may only vote in the House of which they are members.

The judicial power is vested in the Supreme Court of South Africa, headed by a Chief Justice, and consists of an Appellate Division, four Provincial Divisions and three Local Divisions. Judges are appointed by the Government, but have security of tenure.

Provincial Divisions are Provincial branches of a Union Court and not separate Provincial Courts. In view of the flexible nature of the Constitution, the Supreme Court does not occupy the same important constitutional position as, for example, the Supreme Court of the United States. The Supreme Court may pronounce ordinances of the Provincial Councils to be *ultra vires*.

Each of the Provinces has an elected single-chamber legislature known as a Provincial Council. Each Council sits for five years and may not be dissolved sooner. It has the power to make, within the terms of the South Africa Act, ordinances having the force of law within the Province. The head of the Provincial Executive is the Administrator appointed for five years by the Union Government. He is assisted by an Executive Committee consisting of four members chosen by the Provincial Council, voting by proportional representation. Thus in Provincial Councils where there are several parties, the Executive Committee is not a homogeneous party like the Union Cabinet, but is more analogous to the Swiss Federal Executive.

Native Administration in the Union of South Africa is mainly in the hands of the Native Affairs Department. Special features of it are:

(a) A Native Representative Council consisting of twelve elected and four nominated Native members, together with certain official assessor members. This body meets annually and must be consulted on legislation specially or differentially affecting Natives, as well as on a subsidiary Native budget covering education, agricultural development, etc.;

(b) A system of local councils, grouped where possible under general councils for the local government of the Native Reserves;

(c) A special system of courts culminating in two Native Appeal Courts to deal with cases arising in tribal law and custom.

Finally, a word should be said of the dualism of South African life. There are two official languages, English and Afrikaans, enjoying equal status. This provision, an essential condition of Union, is the only permanently rigid part of the Constitution and can be altered only by a majority of not less than two-thirds of the total number of members of both Houses of Parliament present at a special joint sitting. There are two capitals, Cape Town being the seat of the legislature and Pretoria of the administration. Finally, in addition to the National flag, the Union Jack is also a flag of the Union, being flown in certain specified areas as a symbol of the Union's partnership with the British Commonwealth of Nations.

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UNION OF SOVIET SOCIALIST REPUBLICS

SUMMARY¹

INTERNATIONAL STATUS

The Union of Soviet Socialist Republics is a member of the United Nations. It signed the Charter at San Francisco on June 26, 1945, and deposited its ratification on October 24, 1945. It also signed the United Nations Declaration of January 1, 1942.

¹ The Editor is indebted to the USSR Embassy, Washington, D. C., for assistance in the assembling of this material.

It was a member of the League of Nations, but ceased to be a member on December 14, 1939. It signed the Paris Pact of 1928. It did not sign the statute of the Permanent Court of International Justice of 1921. It is a party to the Statute of the International Court of Justice of 1945 by virtue of its membership in the United Nations.¹ It is a member of the Postal Union and numerous other international organizations.²

On August 23, 1939, the USSR concluded a pact with Germany and obtained military concessions from Estonia, Latvia, and Lithuania. In 1940 the three Baltic countries, as well as the Karelo-Finnish and the Moldavian SSR, were organized as Union Republics.

Germany invaded the USSR June 22, 1941, and occupied large sections of territory, all of which were later regained by the USSR. The USSR declared war on Japan on August 8, 1945.

The union of the four original component republics was formed in December 1922. A constitution was adopted January 31, 1924. Additional republics were admitted until the total number had reached eleven at the time of the adoption of the Constitution of 1936. The number had increased to sixteen by 1944. The right of secession was declared in the 1924 Constitution and is also stated in the 1936 one.³

In 1944, the USSR declared that each of the sixteen component republics of the federation was independent in the conduct of its foreign affairs. Separate representation was awarded to two of them, the Byelorussian SSR and Ukrainian SSR, at the San Francisco Conference of 1945 and in the United Nations.

Until 1906 Russia was a despotism under the Czar. Peter the Great turned Russia toward Europe, and under both him and Catherine the Great many changes were made which did not, however, diminish the authority of the sovereign. Alexander I, at a time of reaction in the remainder of Europe (the end of the Napoleonic régime), gave Poland a constitutional kingdom, to the alarm of Russian reactionaries. Owing to criticism on the part of the Poles and urgings by Metternich, many of the liberal measures were revoked.

The reign of Alexander II, the "Czar Liberator" (1855-1881) saw a brief period of reform. However, repressive measures toward the end of his reign undid much that had been accomplished. He was killed by terrorist bombs. Under his successor, Alexander III, progressive measures were unknown. Nicholas II (1894-1917) was forced to make some concessions owing to increasing discontent and the unpopular and dis-

¹ It is not subject to the compulsory jurisdiction of that Court under Article 36 of its Statute. See Yearbook of the Court, 1947-48, p. 38; also Documents & State Papers, U. S. Dept. of State, June 1948, Vol. 1, No. 3, p. 192.

² See Table I.

³ Const. of 1936, Art. 17.

astrous Russo-Japanese War. In 1904 he announced the proposed enactment of many reforms demanded by the liberals, but failed to include a national assembly. A manifesto issued in August of 1905 promised a representative assembly, but emphasized the continuance of the absolute power of the Czar. A general strike broke out in October. Another manifesto of October 30, 1905, granted freedom of speech and association, extended the suffrage, and decreed that the Duma should have some legislative control. This control was restricted by the establishment of an upper-house, the Council of Empire, half of which was appointed from the Czar's bureaucracy, and provision was made that legislative enactments must pass both houses before being submitted to the Czar. The first and second Dumas of May 10, 1906, and March 5, 1907, were dissolved as too radical. The basis of suffrage was narrowed and a third Duma elected. The Czar, however, conceded no basic rights.

The first World War and the lack of success of the Russian armies finally brought about revolution in 1917 and the downfall of the Czar and of the entire old régime. Power soon passed from moderate elements to the hands of radical groups; from Miliukov of the Liberals to Kerensky of the Social Democrats, and thence to Lenin and Trotsky of the Bolsheviks or Communists.

The Communists expelled the provisional government in 1918, made a separate peace with Germany at Brest-Litovsk and began a series of drastic changes. There was a tendency at first for the various portions of Russia to drift apart into separate political entities. This was checked by the threat of foreign invasion and by the fact that most of the smaller states copied the Constitution adopted by the RSFSR in 1918.

FORM OF NATIONAL GOVERNMENT

The Constitution adopted December 5, 1936 declares that the Union of Soviet Socialist Republics is a "socialist state of workers and peasants."¹ This Constitution replaces the one adopted in 1924. The major changes were the recognition of ownership and inheritance of small properties, the secret ballot, and equal franchise to peasants and city workers. In 1943, Stalin approved plans for the reestablishment of the rights and privileges of the Russian Orthodox Church.

The common denominator of the federated republics is the principle of state ownership of "land, its mineral wealth, waters, forests, mills, factories, mines, rail, water, and air transport, banks, communications, large state-organized agricultural enterprises (state farms, machines and tractor stations, and the like) as well as municipal enterprises and the bulk of the dwelling houses in the cities and industrial locali-

¹ Const. of 1936, Art. 1.

ties.”¹ Rights of private ownership, which had to some extent been recognized by statute before 1936, were recognized in the 1936 Constitution as follows:

Art. 9. Alongside the socialist system of economy, which is the predominant form of economy in the USSR, the law permits the small private economy of individual peasants and handicraftsmen based on their own labor and precluding the exploitation of the labor of others.

Art. 10. The personal property right of citizens in their incomes and savings from work, their dwelling houses and subsidiary home enterprises, in articles of domestic economy and use, and articles of personal use and convenience, as well as the right of citizens to inherit personal property, is protected by law.

SOURCE OF SOVEREIGN POWER

All power in the USSR is stated to belong to “the working people of town and country as represented by the soviets of working people’s deputies.”²

RIGHTS OF THE PEOPLE

The Constitution guarantees the right to work and to rest and leisure,³ to maintenance in old age and sickness,⁴ to education;⁵ equal rights for women and for all citizens irrespective of nationality or race;⁶ freedom of religion,⁷ freedom of speech, press, assembly, and demonstrations;⁸ freedom of association,⁹ inviolability of person¹⁰ and inviolability of domicile and correspondence.¹¹

LEGISLATIVE DEPARTMENT

Legislative power is exercised by the Supreme Soviet of the USSR, consisting of the Soviet of the Union and the Soviet of Nationalities.¹²

The former is elected on a basis of one deputy for every three hundred thousand of the population by universal, equal, direct, and secret suffrage.¹³ The Soviet of Nationalities is elected by the same suffrage on the basis of twenty-five deputies for each union republic, eleven for each autonomous republic, five for each autonomous region and one for each national area.¹⁴ The term is four years.¹⁵ There is a Presidium (elected by the Supreme Soviet) which, among other powers, convenes sessions and dissolves the Supreme Soviet and provides for new elections.¹⁶ Also it has the power to annul “decisions and orders of the council of ministers

¹ Const. of 1936, Art. 6.

⁴ Id., Art. 120.

⁷ Id., Art. 124.

¹⁰ Id., Art. 127.

¹³ Id., Arts. 34, 134, 135.

¹⁶ Id., Arts. 48, 49.

² Id., Art. 3.

⁵ Id., Art. 121.

⁸ Id., Art. 125.

¹¹ Id., Art. 128.

¹⁴ Id., Art. 35.

³ Id., Arts. 118, 119.

⁶ Id., Arts. 122, 123.

⁹ Id., Art. 126.

¹² Id., Arts. 32, 33.

¹⁵ Id., Art. 36.

of the USSR and of the councils of ministers of the union republics if they do not conform to law."¹

EXECUTIVE DEPARTMENT

Executive power belongs to the Council of Ministers of the USSR.² It is appointed by and responsible to the Supreme Soviet and, when this is not in session, to the Presidium.³

JUDICIAL DEPARTMENT

Provision is made for the Supreme Court of the USSR which supervises the judicial activities of all the judicial organs of the USSR and of the union republics.⁴ Its members are elected by the Supreme Soviet for a term of five years.⁵ Judges are stated to be independent.⁶

AREA, POPULATION, LANGUAGE

The USSR has an estimated area of 8,473,444 square miles and an estimated population of about 211,000,000. Russian is the language most widely used, but all areas may use their own languages.

¹ Const. of 1936, Art. 49.

⁴ Id., Arts. 102, 104.

² Id., Art. 64.

⁵ Id., Art. 105.

³ Id., Arts. 65, 70.

⁶ Id., Art. 112.

CONSTITUTION (Fundamental Law) of the UNION OF SOVIET SOCIALIST REPUBLICS¹

December 5, 1936 as amended

Chapter I

The Social Structure

Art. 1. The Union of Soviet Socialist Republics is a socialist state of workers and peasants.

Art. 2. The political foundation of the USSR is the Soviets of Working People's Deputies, which grew and became strong as a result of the overthrow of the power of the landlords and capitalists and the conquest of the dictatorship of the proletariat.

Art. 3. All power in the USSR belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

Art. 4. The economic foundation of the USSR is the socialist system of economy and the socialist ownership of the instruments and means of production, firmly established as a result of the liquidation of the capitalist system of economy, the abolition of private ownership of the instruments and means of production, and the elimination of the exploitation of man by man.

Art. 5. Socialist property in the USSR exists either in the form of state property (belonging to the whole people), or in the form of co-operative and collective-farm property (property of collective farms, property of co-operative societies).

Art. 6. The land, its mineral wealth, waters, forests, mills, factories, mines, rail, water, and air transport, banks, communications, large state-organized agricultural enterprises (state farms, machine and tractor stations, and the like), as well as municipal enterprises and the bulk of the dwelling houses in the cities and industrial localities, are state property, that is, belong to the whole people.

Art. 7. The common enterprises of collective farms and co-operative organizations, with their livestock and implements, the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common, socialist property of the collective farms and co-operative organizations.

Every household in a collective farm, in addition to its basic income from the common, collective farm enterprise, has for its personal use a small plot of household land and, as its personal property, a subsidiary husbandry

¹ Official Translation (except for some changes in capitalization and punctuation) published December 1947 by Information Bulletin, Embassy of the Union of Soviet Socialist Republics, Washington, D. C. See also the slightly differing translation by the American Russian Institute, New York.

on the plot, a dwelling house, livestock, poultry, and minor agricultural implements—in accordance with the rules of the agricultural artel.

Art. 8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time, that is, in perpetuity.

Art. 9. Alongside the socialist system of economy, which is the predominant form of economy in the USSR, the law permits the small private economy of individual peasants and handicraftsmen based on their own labor and precluding the exploitation of the labor of others.

Art. 10. The personal property right of citizens in their incomes and savings from work, their dwelling houses and subsidiary home enterprises, in articles of domestic economy and use and articles of personal use and convenience, as well as the right of citizens to inherit personal property, is protected by law.

Art. 11. The economic life of the USSR is determined and directed by the state national economic plan, with the aim of increasing the public wealth, of steadily raising the material and cultural standards of the working people, of consolidating the independence of the USSR, and strengthening its defensive capacity.

Art. 12. Work in the USSR is a duty and a matter of honor for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the USSR is that of socialism: "From each according to his ability, to each according to his work."

Chapter II

The State Structure

Art. 13. The Union of Soviet Socialist Republics is a federal state, formed on the basis of a voluntary union of equal soviet socialist republics, namely:

- The Russian Soviet Federated Socialist Republic;
- The Ukrainian Soviet Socialist Republic;
- The Byelorussian Soviet Socialist Republic;
- The Uzbek Soviet Socialist Republic;
- The Kazakh Soviet Socialist Republic;
- The Georgian Soviet Socialist Republic;
- The Azerbaijan Soviet Socialist Republic;
- The Lithuanian Soviet Socialist Republic;
- The Moldavian Soviet Socialist Republic;
- The Latvian Soviet Socialist Republic;
- The Kirghiz Soviet Socialist Republic;
- The Tajik Soviet Socialist Republic;
- The Armenian Soviet Socialist Republic;
- The Turkmen Soviet Socialist Republic;
- The Estonian Soviet Socialist Republic;
- The Karelo-Finnish Soviet Socialist Republic.

Art. 14. The jurisdiction of the Union of Soviet Socialist Republics, as represented by its highest organs of state power and organs of state administration, embraces:

- (a) Representation of the USSR in international relations, conclusion, ratification, and denunciation of treaties of the USSR with other States,

establishment of general procedure governing the relations of union republics with foreign states;

- (b) Questions of war and peace;
- (c) Admission of new republics into the USSR;
- (d) Control over the observance of the Constitution of the USSR and ensuring conformity of the constitutions of the union republics with the Constitution of the USSR;
- (e) Confirmation of alterations of boundaries between union republics;
- (f) Confirmation of the formation of new territories and regions and also of new autonomous republics and autonomous regions within union republics;
- (g) Organization of the defense of the USSR, direction of all the armed forces of the USSR, determination of directing principles governing the organization of the military formations of the union republics;
- (h) Foreign trade on the basis of state monopoly;
- (i) Safeguarding the security of the state;
- (j) Determination of the national economic plans of the USSR;
- (k) Approval of the consolidated state budget of the USSR and of the reports on its fulfillment; determination of the taxes and revenues which go to the union, the republican, and the local budgets;
- (l) Administration of the banks, industrial and agricultural institutions and enterprises and trading enterprises of all-union importance;
- (m) Administration of transport and communications;
- (n) Direction of the monetary and credit system;
- (o) Organization of state insurance;
- (p) Contracting and granting of loans;
- (q) Determination of the basic principles of land tenure and of the use of mineral wealth, forests and waters;
- (r) Determination of the basic principles in the spheres of education and public health;
- (s) Organization of a uniform system of national economic statistics;
- (t) Determination of the principles of labor legislation;
- (u) Legislation concerning the judicial system and judicial procedure; criminal and civil codes;
- (v) Legislation concerning union citizenship; legislation concerning rights of foreigners;
- (w) Determination of the basic principles of legislation concerning marriage and the family;
- (x) Issuing of all-union acts of amnesty.

Art. 15. The sovereignty of the Union Republics is limited only in the spheres defined in Article 14 of the Constitution of the USSR. Outside of these spheres each Union Republic exercises state authority independently. The USSR protects the sovereign rights of the Union Republics.

Art. 16. Each Union Republic has its own Constitution, which takes account of the specific features of the Republic and is drawn up in full conformity with the Constitution of the USSR.

Art. 17. The right freely to secede from the USSR is reserved to every Union Republic.

Art. 18. The territory of a Union Republic may not be altered without its consent.

Art. 18-A. Each Union Republic has the right to enter into direct relations with foreign states and to conclude agreements and exchange diplomatic and consular representatives with them.

Art. 18-B. Each Union Republic has its own Republican military formations.

Art. 19. The laws of the USSR have the same force within the territory of every Union Republic.

Art. 20. In the event of divergence between a law of a Union Republic and a law of the Union, the Union law prevails.

Art. 21. Uniform Union citizenship is established for citizens of the USSR.

Every citizen of a Union Republic is a citizen of the USSR.

Art. 22. The Russian Soviet Federative Socialist Republic consists of the Altai, Krasnodar, Krasnoyarsk, Primorye, Stavropol, and Khabarovsk Territories; the Archangelsk, Astrakhan, Bryansk, Velikiye-Luki, Vladimir, Vologda, Voronezh, Gorky, Grozny, Ivanovo, Irkutsk, Kaliningrad, Kalinin, Kaluga, Kemerovo, Kirov, Kostroma, Crimea, Kuibyshev, Kurgan, Kursk, Leningrad, Molotov, Moscow, Murmansk, Novgorod, Novosibirsk, Omsk, Orel, Penza, Pskov, Rostov, Ryazan, Saratov, Sakhalin, Sverdlovsk, Smolensk, Stalingrad, Tambov, Tomsk, Tula, Tyumen, Ulyanovsk, Chelyabinsk, Chita, Chkalov, and Yaroslavl Regions; the Tatar, Bashkir, Dagestan, Buryat-Mongolian, Kabardinian, Komi, Mari, Mordovian, North Ossetian, Udmurt, Chuvash, and Yakut Autonomous Soviet Socialist Republics; and the Adygei, Jewish, Oirot, Tuva, Khakass and Cherkess Autonomous Regions.

Art. 23. The Ukrainian Soviet Socialist Republic consists of the Vinnitsa, Volhynia, Voroshilovgrad, Dniepropetrovsk, Drohobych, Zhitomir, Transcarpathian, Zaporozhye, Ismail, Kamenets-Podolsk, Kiev, Kirovograd, Lvov, Nikolayev, Odessa, Poltava, Rovno, Stalino, Stanislav, Sumi, Ternopol, Kharkov, Kherson, Chernigov, and Chernovitsi Regions.

Art. 24. The Azerbaijan Soviet Socialist Republic includes the Nakhichevan Autonomous Soviet Socialist Republic and the Nagorno-Karabakh Autonomous Region.

Art. 25. The Georgian Soviet Socialist Republic includes the Abkhazian Autonomous Soviet Socialist Republic, the Adjara Autonomous Soviet Socialist Republic, and the South Ossetian Autonomous Region.

Art. 26. The Uzbek Soviet Socialist Republic consists of the Andizhan, Bukhara, Kashka-Darya, Namangan, Samarkand, Surkhan-Darya, Tashkent, Ferghana, and Khorezm Regions and the Kara-Kalpak Autonomous Soviet Socialist Republic.

Art. 27. The Tajik Soviet Socialist Republic consists of the Garm, Kulyab, Leninabad, and Stalinabad Regions, and the Gorno-Badakhshan Autonomous Region.

Art. 28. The Kazakh Soviet Socialist Republic consists of the Akmolinsk, Aktyubinsk, Alma-Ata, East Kazakhstan, Guriev, Jambul, West Kazakhstan, Karaganda, Kzyl-Orda, Kokchetav, Kustanai, Pavlodar, North Kazakhstan, Semipalatinsk, Taldy-Kurgan and South Kazakhstan Regions.

Art. 29. The Byelorussian Soviet Socialist Republic consists of the Baranovichi, Bobruisk, Brest, Vitebsk, Gomel, Grodno, Minsk, Moghilev, Molodechno, Pinsk, Polesseye, and Polotsk Regions.

Art. 29-A. The Turkmen Soviet Socialist Republic consists of the Ashkhabad, Mari, Tashauz and Chardzhou Regions.

Art. 29-B. The Kirghiz Soviet Socialist Republic consists of the Dzhalsal-Abad, Issyk-Kul, Osh, Talas, Tien-Shan and Frunze Regions.

*Chapter III***The Higher Organs of State Power
in the Union of Soviet Socialist Republics**

Art. 30. The highest organ of state power in the USSR is the Supreme Soviet of the USSR.

Art. 31. The Supreme Soviet of the USSR exercises all rights vested in the Union of Soviet Socialist Republics in accordance with Article 14 of the Constitution, in so far as they do not, by virtue of the Constitution, come within the jurisdiction of organs of the USSR that are accountable to the Supreme Soviet of the USSR, that is, the Presidium of the Supreme Soviet of the USSR, the Council of Ministers of the USSR and the Ministries of the USSR.

Art. 32. The legislative power of the USSR is exercised exclusively by the Supreme Soviet of the USSR.

Art. 33. The Supreme Soviet of the USSR consists of two Chambers: the Soviet of the Union and the Soviet of Nationalities.

Art. 34. The Soviet of the Union is elected by the citizens of the USSR voting by election districts on the basis of one deputy for every 300,000 of the population.

Art. 35. The Soviet of Nationalities is elected by the citizens of the USSR voting by Union Republics, Autonomous Republics, Autonomous Regions, and National Areas on the basis of twenty-five deputies from each Union Republic, eleven deputies from each Autonomous Republic, five deputies from each Autonomous Region, and one deputy from each National Area.

Art. 36. The Supreme Soviet of the USSR is elected for a term of four years.

Art. 37. The two Chambers of the Supreme Soviet of the USSR, the Soviet of the Union and the Soviet of Nationalities, have equal rights.

Art. 38. The Soviet of the Union and the Soviet of Nationalities have equal powers to initiate legislation.

Art. 39. A law is considered adopted if passed by both Chambers of the Supreme Soviet of the USSR by a simple majority vote in each.

Art. 40. Laws passed by the Supreme Soviet of the USSR are published in the languages of the Union Republics over the signatures of the President and Secretary of the Presidium of the Supreme Soviet of the USSR.

Art. 41. Sessions of the Soviet of the Union and of the Soviet of Nationalities begin and terminate simultaneously.

Art. 42. The Soviet of the Union elects a Chairman of the Soviet of the Union and two Vice-Chairmen.

Art. 43. The Soviet of Nationalities elects a Chairman of the Soviet of Nationalities and two Vice-Chairmen.

Art. 44. The Chairmen of the Soviet of the Union and the Soviet of Nationalities preside at the sittings of the respective Chambers and have charge of the conduct of their business and proceedings.

Art. 45. Joint sittings of the two Chambers of the Supreme Soviet of the USSR are presided over alternately by the Chairman of the Soviet of the Union and the Chairman of the Soviet of Nationalities.

Art. 46. Sessions of the Supreme Soviet of the USSR are convened by the Presidium of the Supreme Soviet of the USSR twice a year.

Extraordinary sessions are convened by the Presidium of the Supreme Soviet of the USSR at its discretion or on the demand of one of the Union Republics.

Art. 47. In the event of disagreement between the Soviet of the Union and the Soviet of Nationalities, the question is referred for settlement to a conciliation commission formed on a parity basis. If the conciliation commission fails to arrive at an agreement, or if its decision fails to satisfy one of the Chambers, the question is considered for a second time by the Chambers. Failing agreement between the two Chambers, the Presidium of the Supreme Soviet of the USSR dissolves the Supreme Soviet of the USSR and orders new elections.

Art. 48. The Supreme Soviet of the USSR at a joint sitting of the two Chambers elects the Presidium of the Supreme Soviet of the USSR, consisting of a President of the Presidium of the Supreme Soviet of the USSR, sixteen Vice-Presidents, a Secretary of the Presidium and fifteen members of the Presidium of the Supreme Soviet of the USSR.

The Presidium of the Supreme Soviet of the USSR is accountable to the Supreme Soviet of the USSR for all its activities.

Art. 49. The Presidium of the Supreme Soviet of the USSR:

- (a) Convenes the sessions of the Supreme Soviet of the USSR;
- (b) Issues decrees;
- (c) Gives interpretations of the laws of the USSR in operation;
- (d) Dissolves the Supreme Soviet of the USSR in conformity with Article 47 of the Constitution of the USSR and orders new elections;
- (e) Conducts nation-wide polls (referendums) on its own initiative or on the demand of one of the Union Republics;
- (f) Annuls decisions and orders of the Council of Ministers of the USSR and of the Councils of Ministers of the Union Republics if they do not conform to law;
- (g) In the intervals between sessions of the Supreme Soviet of the USSR, releases and appoints Ministers of the USSR on the recommendation of the Chairman of the Council of Ministers of the USSR, subject to subsequent confirmation by the Supreme Soviet of the USSR;
- (h) Institutes decorations (orders and medals) and titles of honor of the USSR;
- (i) Awards orders and medals and confers titles of honor of the USSR;
- (j) Exercises the right of pardon;
- (k) Institutes military titles, diplomatic ranks and other special titles;
- (l) Appoints and removes the high command of the Armed Forces of the USSR;
- (m) In the intervals between sessions of the Supreme Soviet of the USSR, proclaims a state of war in the event of military attack on the USSR, or when necessary to fulfill international treaty obligations concerning mutual defense against aggression;
- (n) Orders general or partial mobilization;
- (o) Ratifies and denounces international treaties of the USSR;
- (p) Appoints and recalls plenipotentiary representatives of the USSR to foreign states;
- (q) Receives the letters of credence and recall of diplomatic representatives accredited to it by foreign states;
- (r) Proclaims martial law in separate localities or throughout the USSR in the interests of the defense of the USSR or of the maintenance of public order and the security of the state.

Art. 50. The Soviet of the Union and the Soviet of Nationalities elect Credentials Committees to verify the credentials of the members of the respective Chambers.

On the report of the Credentials Committees, the Chambers decide whether to recognize the credentials of deputies or to annul their election.

Art. 51. The Supreme Soviet of the USSR, when it deems necessary, appoints commissions of investigation and audit on any matter.

It is the duty of all institutions and offices to comply with the demands of such commissions and to submit to them all necessary materials and documents.

Art. 52. A member of the Supreme Soviet of the USSR may not be prosecuted or arrested without the consent of the Supreme Soviet of the USSR, or when the Supreme Soviet of the USSR is not in session, without the consent of the Presidium of the Supreme Soviet of the USSR.

Art. 53. On the expiration of the term of office of the Supreme Soviet of the USSR, or on its dissolution prior to the expiration of its term of office, the Presidium of the Supreme Soviet of the USSR retains its powers until the newly-elected Supreme Soviet of the USSR shall have formed a new Presidium of the Supreme Soviet of the USSR.

Art. 54. On the expiration of the term of office of the Supreme Soviet of the USSR, or in the event of its dissolution prior to the expiration of its term of office, the Presidium of the Supreme Soviet of the USSR orders new elections to be held within a period not exceeding two months from the date of expiration of the term of office or dissolution of the Supreme Soviet of the USSR.

Art. 55. The newly-elected Supreme Soviet of the USSR is convened by the outgoing Presidium of the Supreme Soviet of the USSR not later than three months after the elections.

Art. 56. The Supreme Soviet of the USSR, at a joint sitting of the two Chambers, appoints the Government of the USSR, namely, the Council of Ministers of the USSR.

Chapter IV

The Higher Organs of State Power in the Union Republics

Art. 57. The highest organ of state power in a Union Republic is the Supreme Soviet of the Union Republic.

Art. 58. The Supreme Soviet of a Union Republic is elected by the citizens of the Republic for a term of four years.

The basis of representation is established by the Constitution of the Union Republic.

Art. 59. The Supreme Soviet of a Union Republic is the sole legislative organ of the Republic.

Art. 60. The Supreme Soviet of a Union Republic:

(a) Adopts the Constitution of the Republic and amends it in conformity with Article 16 of the Constitution of the USSR;

(b) Confirms the Constitutions of the Autonomous Republics forming part of it and defines the boundaries of their territories;

(c) Approves the national economic plan and the budget of the Republic;

(d) Exercises the right of amnesty and pardon of citizens sentenced by the judicial organs of the Union Republic;

(e) Decides questions of representation of the Union Republic in its international relations;

(f) Determines the manner of organizing the Republic's military formations.

Art. 61. The Supreme Soviet of a Union Republic elects the Presidium of the Supreme Soviet of the Union Republic, consisting of a President of the Presidium of the Supreme Soviet of the Union Republic, Vice-Presidents, a Secretary of the Presidium and members of the Presidium of the Supreme Soviet of the Union Republic.

The powers of the Presidium of the Supreme Soviet of a Union Republic are defined by the Constitution of the Union Republic.

Art. 62. The Supreme Soviet of a Union Republic elects a chairman and Vice-Chairmen to conduct its sittings.

Art. 63. The Supreme Soviet of a Union Republic appoints the Government of the Union Republic, namely, the Council of Ministers of the Union Republic.

Chapter V

The Organs of State Administration of the Union of Soviet Socialist Republics

Art. 64. The highest executive and administrative organ of the state power of the Union of Soviet Socialist Republics is the Council of Ministers of the USSR.

Art. 65. The Council of Ministers of the USSR is responsible and accountable to the Supreme Soviet of the USSR, or, in the intervals between sessions of the Supreme Soviet, to the Presidium of the Supreme Soviet of the USSR.

Art. 66. The Council of Ministers of the USSR issues decisions and orders on the basis and in pursuance of the laws in operation, and verifies their execution.

Art. 67. Decisions and orders of the Council of Ministers of the USSR are binding throughout the territory of the USSR.

Art. 68. The Council of Ministers of the USSR:

(a) Co-ordinates and directs the work of the all-Union and Union-Republican Ministries of the USSR and of other institutions under its jurisdiction;

(b) Adopts measures to carry out the national economic plan and the state budget, and to strengthen the credit and monetary system;

(c) Adopts measures for the maintenance of public order, for the protection of the interests of the state, and for the safeguarding of the rights of citizens;

(d) Exercises general guidance in the sphere of relations with foreign states;

(e) Fixes the annual contingent of citizens to be called up for military service and directs the general organization of the Armed Forces of the country;

(f) Sets up, whenever necessary, special Committees and Central Administrations under the Council of Ministers of the USSR for economic and cultural affairs and defense.

Art. 69. The Council of Ministers of the USSR has the right, in respect of those branches of administration and economy which come within the jurisdiction of the USSR, to suspend decisions and orders of the Councils of Ministers of the Union Republics and to annul orders and instructions of Ministers of the USSR.

Art. 70. The Council of Ministers of the USSR is appointed by the Supreme Soviet of the USSR and consists of:

The Chairman of the Council of Ministers of the USSR;
The Vice-Chairmen of the Council of Ministers of the USSR;
The Chairman of the State Planning Commission of the USSR;
The Ministers of the USSR;
The Chairman of the Arts Committee.

Art. 71. The Government of the USSR or a Minister of the USSR to whom a question of a member of the Supreme Soviet of the USSR is addressed must give a verbal or written reply in the respective Chamber within a period not exceeding three days.

Art. 72. The Ministers of the USSR direct the branches of state administration which come within the jurisdiction of the USSR.

Art. 73. The Ministers of the USSR, within the limits of the jurisdiction of their respective Ministries, issue orders and instructions on the basis and in pursuance of the laws in operation, and also of decisions and orders of the Council of Ministers of the USSR, and verify their execution.

Art. 74. The Ministries of the USSR are either all-Union or Union-Republican Ministries.

Art. 75. Each all-Union Ministry directs the branch of state administration entrusted to it throughout the territory of the USSR either directly or through bodies appointed by it.

Art. 76. The Union-Republican Ministries, as a rule, direct the branches of state administration entrusted to them through corresponding Ministries of the Union Republics; they administer directly only a definite and limited number of enterprises according to a list confirmed by the Presidium of the Supreme Soviet of the USSR.

Art. 77. The following Ministries are all-Union Ministries:

The Ministry of the Aircraft Industry
The Ministry of the Automobile Industry
The Ministry of Foreign Trade
The Ministry of Munitions
The Ministry of Geological Survey
The Ministry of Agricultural Stocks
The Ministry of Material Reserves
The Ministry of the Machine and Instrument-Making Industry
The Ministry of the Medical Supplies Industry
The Ministry of the Merchant Marine
The Ministry of the Oil Industry of the Eastern Areas
The Ministry of the Oil Industry of the Southern and Western Areas
The Ministry of Food Reserves
The Ministry of the Communications Equipment Industry
The Ministry of Railways
The Ministry of the Rubber Industry
The Ministry of Inland Water Transport
The Ministry of Communications
The Ministry of the Agricultural Machinery Industry
The Ministry of the Machine-Tool Industry
The Ministry of the Building and Road-Building Machinery Industry
The Ministry of Construction of Army and Navy Works
The Ministry of Construction of Heavy Industry Works
The Ministry of Construction of Fuel Industry Works
The Ministry of Shipbuilding
The Ministry of the Transport Machinery Industry
The Ministry of Labor Reserves

The Ministry of the Heavy Machine Building Industry
 The Ministry of the Coal Industry of the Eastern Areas
 The Ministry of the Coal Industry of the Western Areas
 The Ministry of the Chemical Industry
 The Ministry of the Non-ferrous Metals Industry
 The Ministry of the Pulp and Paper Industry
 The Ministry of the Iron and Steel Industry
 The Ministry of the Electrical Industry
 The Ministry of Power Stations.

Art. 78. The following Ministries are Union-Republican Ministries:

The Ministry of the Grocery Supplies Industry
 The Ministry of Internal Affairs
 The Ministry of the Armed Forces
 The Ministry of Higher Education
 The Ministry of State Control
 The Ministry of State Security
 The Ministry of Public Health
 The Ministry of Foreign Affairs
 The Ministry of Cinematography
 The Ministry of Light Industry
 The Ministry of the Timber Industry
 The Ministry of the Meat and Dairy Industry
 The Ministry of the Food Industry
 The Ministry of the Building Materials Industry
 The Ministry of the Fish Industry of the Eastern Areas
 The Ministry of the Fish Industry of the Western Areas
 The Ministry of Agriculture
 The Ministry of State Farms
 The Ministry of the Textile Industry
 The Ministry of Trade
 The Ministry of Finance
 The Ministry of Justice
 The Ministry of Forestry.¹

Chapter VI

The Organs of State Administration of the Union Republics

Art. 79. The highest executive and administrative organ of the state power of a Union Republic is the Council of Ministers of the Union Republic.

Art. 80. The Council of Ministers of a Union Republic is responsible and accountable to the Supreme Soviet of the Union Republic, or, in the intervals between sessions of the Supreme Soviet of the Union Republic, to the Presidium of the Supreme Soviet of the Union Republic.

Art. 81. The Council of Ministers of a Union Republic issues decisions and orders on the basis and in pursuance of the laws in operation of the USSR and of the Union Republic, and of the decisions and orders of the Council of Ministers of the USSR, and verifies their execution.

Art. 82. The Council of Ministers of a Union Republic has the right to suspend decisions and orders of the Councils of Ministers of its Autonomous Republics, and to annul decisions and orders of the Executive Committees of the Soviets of Working People's Deputies of its Territories, Regions, and Autonomous Regions.

¹ Instituted by decree of the Presidium of the Supreme Soviet of the USSR on April 4, 1947.

Art. 83. The Council of Ministers of a Union Republic is appointed by the Supreme Soviet of the Union Republic and consists of:

The Chairman of the Council of Ministers of the Union Republic;
The Vice-Chairmen of the Council of Ministers;
The Chairmen of the State Planning Commission;
The Ministers;
The Chief of the Arts Administration;
The Chairman of the Committee for Cultural and Educational Institutions.

Art. 84. The Ministers of a Union Republic direct the branches of state administration which come within the jurisdiction of the Union Republic.

Art. 85. The Ministers of a Union Republic, within the limits of the jurisdiction of their respective Ministries, issue orders and instructions on the basis and in pursuance of the laws of the USSR and of the Union Republic, of the decisions and orders of the Council of Ministers of the USSR and the Council of Ministers of the Union Republic, and of the orders and instructions of the Union-Republican Ministries of the USSR.

Art. 86. The Ministries of a Union Republic are either Union-Republican or Republican Ministries.

Art. 87. Each Union-Republican Ministry directs the branch of state administration entrusted to it, and is subordinate both to the Council of Ministers of the Union Republic and to the corresponding Union-Republican Ministry of the USSR.

Art. 88. Each Republican Ministry directs the branch of state administration entrusted to it and is directly subordinate to the Council of Ministers of the Union Republic.

Chapter VII

The Higher Organs of State Power in the Autonomous Soviet Socialist Republics

Art. 89. The highest organ of state power in an Autonomous Soviet Socialist Republic is the Supreme Soviet of the Autonomous Republic.

Art. 90. The Supreme Soviet of an Autonomous Republic is elected by the citizens of the Republic for a term of four years on a basis of representation established by the Constitution of the Autonomous Republic.

Art. 91. The Supreme Soviet of an Autonomous Republic is the sole legislative organ of the Autonomous Republic.

Art. 92. Each Autonomous Republic has its own Constitution, which takes account of the specific features of the Autonomous Republic and is drawn up in full conformity with the Constitution of the Union Republic.

Art. 93. The Supreme Soviet of an Autonomous Republic elects the Presidium of the Supreme Soviet of the Autonomous Republic and appoints the Council of Ministers of the Autonomous Republic, in accordance with its Constitution.

Chapter VIII

The Local Organs of State Power

Art. 94. The organs of state power in territories, regions, autonomous regions, areas, districts, cities, and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are the Soviets of Working People's Deputies.

Art. 95. The Soviets of Working People's Deputies of territories, regions, autonomous regions, areas, districts, cities, and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are elected by the working people of the respective territories, regions, autonomous regions, areas, districts, cities, or rural localities for a term of two years.

Art. 96. The basis of representation for Soviets of Working People's Deputies is defined by the Constitutions of the Union Republics.

Art. 97. The Soviets of Working People's Deputies direct the work of the organs of administration subordinate to them, ensure the maintenance of public order, the observance of the laws, and the protection of the rights of citizens, direct local economic and cultural affairs and draw up the local budgets.

Art. 98. The Soviets of Working People's Deputies adopt decisions and issue orders within the limits of the powers vested in them by the laws of the USSR and of the Union Republic.

Art. 99. The executive and administrative organ of the Soviets of Working People's Deputies of a territory, region, autonomous region, area, district, city or rural locality is the Executive Committee elected by it, consisting of a Chairman, Vice-Chairman, a Secretary and members.

Art. 100. The executive and administrative organ of the Soviet of Working People's Deputies in a small locality, in accordance with the Constitution of the Union Republic, is the Chairman, the Vice-Chairman and the Secretary elected by it.

Art. 101. The executive organs of the Soviets of Working People's Deputies are directly accountable both to the Soviets of Working People's Deputies which elected them and to the executive organ of the superior Soviet of Working People's Deputies.

Chapter IX

The Courts and the Procurator's Office

Art. 102. In the USSR justice is administered by the Supreme Court of the USSR, the Supreme Courts of the Union Republics, the Courts of the Territorial Regions, Autonomous Republics, Autonomous Regions and Areas, the Special Courts of the USSR established by decision of the Supreme Soviet of the USSR, and the People's Courts.

Art. 103. In all Courts cases are tried with the participation of people's assessors, except in cases specially provided for by law.

Art. 104. The Supreme Court of the USSR is the highest judicial organ. The Supreme Court of the USSR is charged with the supervision of the judicial activities of all the judicial organs of the USSR and of the Union Republics.

Art. 105. The Supreme Court of the USSR and the Special Courts of the USSR are elected by the Supreme Soviet of the USSR for a term of five years.

Art. 106. The Supreme Courts of the Union Republics are elected by the Supreme Soviets of the Union Republics for a term of five years.

Art. 107. The Supreme Courts of the Autonomous Republics are elected by the Supreme Soviets of the Autonomous Republics for a term of five years.

Art. 108. The Courts of Territories, Regions, Autonomous Regions and Areas are elected by the Soviets of Working People's Deputies of the

respective Territories, Regions, Autonomous Regions or Areas, for a term of five years.

Art. 109. People's Courts are elected by the citizens of the districts on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 110. Judicial proceedings are conducted in the language of the Union Republic, Autonomous Republic, or Autonomous Region, persons not knowing this language being guaranteed the opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Art. 111. In all Courts of the USSR cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to defense.

Art. 112. Judges are independent and subject only to the law.

Art. 113. Supreme supervisory power to ensure the strict observance of the law by all Ministries and institutions subordinated to them, as well as by officials and citizens of the USSR generally, is vested in the Procurator-General of the USSR.

Art. 114. The Procurator-General of the USSR is appointed by the Supreme Soviet of the USSR for a term of seven years.

Art. 115. Procurators of Republics, Territories, Regions, Autonomous Republics and Autonomous Regions are appointed by the Procurator-General of the USSR for a term of five years.

Art. 116. Area, district, and city procurators are appointed by the Procurators of the Union Republics, subject to the approval of the Procurator-General of the USSR, for a term of five years.

Art. 117. The organs of the Procurator's Office perform their functions independently of any local organs whatsoever, being subordinate solely to the Procurator-General of the USSR.

Chapter X

Fundamental Rights and Duties of Citizens

Art. 118. Citizens of the USSR have the right to work, that is, the right to guaranteed employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

Art. 119. Citizens of the USSR have the right to rest and leisure.

The right to rest and leisure is ensured by the establishment of an eight-hour day for factory and office workers, the reduction of the working day to seven and six hours for arduous trades and to four hours in shops where working conditions are particularly arduous, by the institution of annual vacations with full pay for factory and office workers, and by the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

Art. 120. Citizens of the USSR have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of factory and office workers at state expense, free medical service for the

working people, and the provision of a wide network of health resorts for the use of the working people.

Art. 121. Citizens of the USSR have the right to education.

This right is ensured by universal and compulsory elementary education; by free education up to and including the seventh grade; by a system of state stipends for students of higher educational establishments who excel in their studies; by instruction in schools being conducted in the native language; and by the organization in the factories, state farms, machine and tractor stations and collective farms of free vocational, technical, and agronomic training for the working people.

Art. 122. Women in the USSR are accorded equal rights with men in all spheres of economic, government, cultural, political and other public activity.

The possibility of exercising these rights is ensured by women being accorded an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by state protection of the interests of mother and child, state aid to mothers of large families and unmarried mothers, maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

Art. 123. Equality of rights of citizens of the USSR, irrespective of their nationality or race, in all spheres of economic, government, cultural, political and other public activity, is an indefeasible law.

Any direct or indirect restriction of the rights of, or, conversely, the establishment of any direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art. 124. In order to ensure to citizens freedom of conscience, the church in the USSR is separated from the state, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

Art. 125. In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the USSR are guaranteed by law:

- (a) Freedom of speech;
- (b) Freedom of the press;
- (c) Freedom of assembly, including the holding of mass meetings;
- (d) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communications facilities and other material requisites for the exercise of these rights.

Art. 126. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the USSR are guaranteed the right to unite in public organizations: trade unions, co-operative societies, youth organizations, sport and defense organizations, cultural, technical and scientific societies; and the most active and politically-conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen

and develop the socialist system and is the leading core of all organizations of the working people, both public and state.

Art. 127. Citizens of the USSR are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Art. 128. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Art. 129. The USSR affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for scientific activities, or for struggling for national liberation.

Art. 130. It is the duty of every citizen of the USSR to abide by the Constitution of the Union of Soviet Socialist Republics, to observe the laws, to maintain labor discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Art. 131. It is the duty of every citizen of the USSR to safeguard and fortify public, socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, as the source of the prosperity and culture of all the working people.

Persons committing offenses against public, socialist property are enemies of the people.

Art. 132. Universal military service is law.

Military service in the Armed Forces of the USSR is an honorable duty of the citizens of the USSR.

Art. 133. To defend the country is the sacred duty of every citizen of the USSR. Treason to the motherland—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the state, espionage—is punishable with all the severity of the law as the most heinous of crimes.

Chapter XI

The Electoral System

Art. 134. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the USSR, the Supreme Soviets of the Union Republics, the Soviets of Working People's Deputies of the Territories and Regions, the Supreme Soviets of the Autonomous Republics, the Soviets of Working People's Deputies of the Autonomous Regions, and the area, district, city, and rural (stanitsa, village, hamlet, kishlak, aul) Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, equal and direct suffrage by secret ballot.

Art. 135. Elections of deputies are universal: all citizens of the USSR who have reached the age of eighteen, irrespective of race or nationality, sex, religion, education, domicile, social origin, property status or past activities, have the right to vote in the election of deputies, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Every citizen of the USSR who has reached the age of twenty-three is eligible for election to the Supreme Soviet of the USSR, irrespective of race or nationality, sex, religion, education, domicile, social origin, property status or past activities.

Art. 136. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 137. Women have the right to elect and be elected on equal terms with men.

Art. 138. Citizens serving in the Armed Forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 139. Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's Deputies to the Supreme Soviet of the USSR, are elected by the citizens by direct vote.

Art. 140. Voting at elections of deputies is secret.

Art. 141. Candidates are nominated by election district.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, cooperatives, youth organizations and cultural societies.

Art. 142. It is the duty of every deputy to report to his electors on his work and on the work of his Soviet of Working People's Deputies, and he may be recalled at any time upon decision of a majority of the electors in the manner established by law.

Chapter XII

Arms, Flag, Capital

Art. 143. The arms of the Union of Soviet Socialist Republics are a sickle and hammer against a globe depicted in the rays of the sun and surrounded by ears of grain, with the inscription "Workers of All Countries, Unite!" in the languages of the Union Republics. At the top of the arms is a five-pointed star.

Art. 144. The state flag of the Union of Soviet Socialist Republics is of red cloth with the sickle and hammer depicted in gold in the upper corner near the staff and above them a five-pointed red star bordered in gold. The ratio of the width to the length is 1:2.

Art. 145. The capital of the Union of Soviet Socialist Republics is the City of Moscow.

Chapter XIII

Procedure for Amending the Constitution

Art. 146. The Constitution of the USSR may be amended only by decision of the Supreme Soviet of the USSR adopted by a majority of not less than two thirds of the votes in each of its Chambers.

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THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

SUMMARY

INTERNATIONAL STATUS

The "United Kingdom of Great Britain and Northern Ireland" is a member of the United Nations. It signed the Charter on June 26, 1945. It also signed the Declaration of the United Nations of January 1, 1942.

It was an original member of the League of Nations and was a party to the Paris Peace Treaty of 1928. It is a member of the Postal Union and various other international organizations.¹

The "British Empire" signed the Statute of the Permanent Court of International Justice on December 18, 1920, and "His Majesty's Government in the United Kingdom" accepted the optional clause regarding compulsory jurisdiction on September 19, 1929 for a period of ten years and "thereafter until such time as notice may be given to terminate the acceptance," with certain exceptions.² It is a party to the Statute of the International Court of Justice of 1945 and is subject to its compulsory jurisdiction under Article 36 of that Statute with reservations.³

The Statute of Westminster passed by the House of Commons November 24, 1931, ratified the declarations of the Imperial Conferences of 1926 and 1930, participated in by the United Kingdom of Great Britain and Northern Ireland, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State, and the Dominion of Newfoundland. The Conference defined the Dominions as "autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or foreign affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations. . . . Every self-governing member of the Empire is master of its destiny. In fact if not always in form, it is subject to no more compulsion whatever."⁴

The roots of the United Kingdom date from about the ninth century when the English kingdoms were brought together under Egbert of Wessex (827).

FORM OF NATIONAL GOVERNMENT

The United Kingdom has no single written constitutional document. It is now in the small minority among the sovereign nations in this respect.

The following documents are generally accepted as being among the principal ones which outline the British Constitution:

¹ See Table I.

² On September 11, 1939, the United Kingdom gave notice that it would not regard its acceptance of the optional clause "as covering disputes arising out of events during the present hostilities." By a declaration of February 28, 1940, it terminated its declaration of September 19, 1929, and by another declaration of the same date it accepted jurisdiction for a period of five years from February 28, 1940, "and thereafter until such time as notice may be given to terminate the acceptance, over all disputes covered by the declaration of September 19, 1929, excepting, however, 'disputes arising out of events occurring at a time when His Majesty's Government in the United Kingdom were involved in hostilities.'"

³ See Yearbook of the Court 1947-48, p. 39; also Documents and State Papers, U.S. Dept. of State, June 1948, Vol. 1, No. 3, p. 192, 204 et seq.

⁴ The full text of the Statute of Westminster is printed under Canada.

Magna Carta, 1215;

The Great Charter of the Liberties of England and of the Liberties of the Forest; confirmed 1297;

Statute concerning Tallage, 1297;

The Petition of Right, 1627;

The *Habeas Corpus* Act of 1670;

The Bill of Rights of 1689;

The Act of Settlement of 1700, providing for the Protestant succession to the throne and other matters;

The Act of Union with Scotland of 1706 and Amendment of 1707;

The Act of Union with Ireland of 1800;

The Parliament Act of 1911, which enabled the Commons to pass certain acts without the concurrence of the House of Lords;

The Statute of Westminster of 1931.

Supplementing these should also be mentioned the Electoral Reform Laws of 1832, 1867, 1884, 1918, 1928; the acts of 1828 and 1829 removing religious qualifications for office; the Secret Ballot Act of 1872; the Re-apportionment Act of 1885; the Representation of the People Acts of 1928, 1945 and 1948; the House of Commons Act of 1944; and the social legislation extending from 1897 to 1912 relating to workmen's compensation, old age pensions, regulation of "sweated industries," labor exchanges, and national insurance. There is also a large body of unwritten English constitutional law.

PROJECT OF THE FOREIGN OFFICE IN 1938

In the year 1938, the British Foreign Office, following discussions and correspondence with the editor of this American compilation, announced the publication of a compilation of the "Constitutions of all Countries." Volume I of that projected compilation was entitled "The British Empire." The volume, issued by His Majesty's Stationery Office, bears on the cover the following statement:

"In this volume is assembled for the first time a detailed collection of the documents, where they exist, defining the Constitutional organization and framework of all the countries within the British Empire. The second volume of the work will contain similar material relating to Continental European countries and their dependencies. The volumes have been compiled by the Foreign Office."

In 1938, therefore, for the first time in the eleven hundred or more years of the history of Great Britain, there was an officially recognized compilation of the "documents, where they exist, defining the Constitutional organization and framework of all the countries within the British Empire." It does not deal with the United Kingdom itself, but it sets forth various statutes, acts of Parliament, orders in council, royal instructions, letters patent, and other instruments relating to other component

parts of the British Empire. A few of these documents, such as the Act of July 9, 1900,¹ regarding Australia and the Act of September 20, 1909,² regarding the Union of South Africa, as well as the British North America Act, are in a form comparable to the generally accepted conception of a constitution. The act relating to Australia specifically describes its contents as a "constitution." The remainder of the volume is, however, largely a collection of statutory and administrative details not customarily understood, from the American standpoint, as constitutional material. Many of the constitutional bases of the Dominions are found elsewhere than in the British acts of Parliament.

BRITISH GOVERNMENT INSTITUTIONS

In general the government of the United Kingdom includes the King, a prime minister, a cabinet, and executive and administrative officials; a parliament consisting of the King, the House of Lords and the House of Commons; and courts of law. The precise functions and powers of those institutions are not declared in any single document. The American concept that the people in their sovereign right have set up a government, declared the rights reserved to themselves, and defined in a constitution the institutions of government and the functions which they are to perform is absent in Great Britain because the government did not grow that way. It originated in a feudal system dominated by lords and kings, from which there evolved institutions controlled by the people of the nation. As Bagehot puts it: "The slavish Parliament of Henry VIII grew into the murmuring Parliament of Queen Elizabeth, the mutinous Parliament of James I, and the rebellious Parliament of Charles I."

LOCAL GOVERNMENT

Local government is carried out by elected councils which are supervised by the national government.

SOURCE OF SOVEREIGN POWER

The British Foreign Office volume, which is of great value as a first statement of its kind issuing from the Foreign Office, brings into sharp relief the divergence between the British Empire and most of the other sovereign nations regarding the source of sovereign power. In the majority of national constitutions, and particularly in most of those countries classifying themselves as democracies, there are statements indicating that "the people" are the source of all sovereign power. The documents contained in this Foreign Office volume respecting the constitution of the British Empire, however, emanate from the King or the Parliament.

¹ 63 & 64 Victoria, C. 12, as amended 1907, 1910 and 1929.

² 9 Edward 7, C. 9 as amended.

Traditionally the people of the Empire are spoken of as "subjects of the Crown" rather than "citizens" of the Empire or Dominions.

Unquestionably, however, political power in Britain has been transferred largely from the Crown to the community. Professor G. M. Trevelyan describes the modern British Constitution as "the child of feudalism married to the common law." Lord Bryce says that the British Constitution "works by a body of understanding which no writer can formulate and of habits which centuries have been needed to instill."

RIGHTS OF THE PEOPLE

The rights of the people cannot be found declared in any single document, but they are guarded in various documents and in precedents and traditions. Magna Charta (1215) granted protection to widows,¹ debtors,² against scutage,³ distraint,⁴ improper inquests,⁵ protection of fair trials,⁶ and of property,⁷ protection of weights and measures,⁸ and free movement of persons in and out of the kingdom and throughout the realm.⁹ In the Great Charter of the Liberties of England (1297) further provision is made that no freeman shall be taken or imprisoned or deprived of his land or liberties except by the law of the land.¹⁰ The Bill of Rights (1688) guarantees the right of petition, the right of Protestant subjects to carry arms "as allowed by the law," the freedom of election of members of Parliament, freedom of speech in Parliament, the right to juries, and that fines and forfeitures before conviction are illegal and void.¹¹

LEGISLATIVE POWER

Legislative power is in Parliament, consisting of the King, the House of Lords, and the House of Commons. In 1946 there were about seven hundred and forty members of the House of Lords (although the voting strength is only about seven hundred and twenty) and six hundred and forty members of the House of Commons.

Sir Edward Coke said, "The power and jurisdiction of Parliament is so transcendent and absolute that it cannot be confined within any bounds." Blackstone said that in Parliament is to be found "that absolute despotic power which must in all governments reside somewhere."

Mr. Harold Callender, writing for the *New York Times*, June 6, 1937, says:

"In America, Congress can override the President's veto, but the House of Commons (which in effect is Parliament) can overthrow the

¹ Magna Charta, Arts. 7, 8.

² Id., Arts. 9, 10, 11.

³ Id., Arts. 12, 14.

⁴ Id., Arts. 16, 23, 28, 29, 30, 31, 54, 55.

⁵ Id., Art. 18.

⁶ Id., Arts. 20, 21, 38, 39, 40, 44, 45, 54.

⁷ Id., Arts. 25-29, 52.

⁸ Id., Art. 35.

⁹ Id., Arts. 41, 42.

¹⁰ Great Charter of the Liberties of England, Chapter 29.

¹¹ Bill of Rights, 1688.

Prime Minister and his Cabinet and could, if necessary, depose the King or abolish the monarchy. It could also abolish the House of Lords which it has already deprived of its former veto power. No executive veto or court decision restricts the power of the House of Commons. Indeed, nothing restricts it but public opinion to which it is accountable."

"... To what extent has the King the right to insist upon or to refuse a dissolution of Parliament? How far may the Prime Minister go in advising the King without consulting his Cabinet colleagues? Nobody quite knows. The answer is not to be found in law books, and discussion of such questions turns upon what Queen Victoria did in 1894 or what Mr. Asquith said in 1923, so greatly does British Constitutional practice derive from precedents, which do not always coincide."

The supremacy of the British Parliament as a source of all sovereign power in England was asserted as early as 1589 by Sir Thomas Smith, then Secretary of State of Queen Elizabeth, who wrote: ¹

"The most high and absolute power of the realm of England consisteth in the parliament . . . That which is done by this consent is called firm, stable and *sanctum*, and is taken for law. The Parliament abrogateth old laws, maketh new, giveth orders for things past and for things hereafter to be followed, changeth rights and possessions of private men, legitimateth bastards, establisheth forms of religion, altereth weights and measures, giveth forms of succession to the crown, defineth of doubtful rights, whereof is no law already made, appointeth subsidies, tailles, taxes, and impositions, giveth most free pardons and absolutions, restoreth in blood and name as the highest court, condemneth or absolveth them whom the prince will put to that trial. And, to be short, all that ever the people of Rome might do either in *centuriatis comitiis* or *tributis*, the same may be done by the parliament of England which representeth and hath the power of the whole realm, both the head and body. For every Englishman is intended to be there present, either in person or by procuration and attorneys, of what preeminence, state, dignity or quality soever he be, from the prince, be he king or queen, to the lowest person of England. And the consent of the parliament is taken to be every man's consent."

EXECUTIVE DEPARTMENT

The throne is hereditary in the British House of Windsor, with mixed succession, and theoretically the King, or Crown, is the executive arm of the state.

Prime Minister

The office of prime minister had been in actual existence nearly two hundred years before it was formally and officially recognized by royal warrant in 1905. The Ministers of the Crown Acts of 1937 provided for

¹ Smith, *De Republica Anglorum*, Edition L. Alson, Cambridge: 1906; Bk. 11, C. 1.

seventeen ministers of the first rank, of whom not more than fourteen may be members of the House of Commons and not less than three members of the House of Lords; and twenty-three parliamentary secretaries of whom not more than twenty-one may be members of the Commons and not less than two of the Lords. Those Acts also recognize officially a "leader of the opposition," who receives a salary and is assigned a post.

Cabinet

The cabinet in peace time consisted of twenty-two ministers. During World War II there was a war cabinet of nine members.

Recent years have seen a growing focusing of power in the British cabinet. Appropriation bills now originate there. Members of Parliament cannot propose expenditures, but can only approve or disapprove those proposed by the "government."

Civil Service

The British civil service is a vast institution which has been built up and which has acquired increasing bureaucratic power. Where restlessness and advocacy of greater liberty appear now in Great Britain, they are directed usually not against the Crown itself, but against bureaucracy and against commitments by the cabinet without consultation even with Parliament.

JUDICIAL DEPARTMENT—THE COURTS

The judges of the courts are appointed by the cabinet upon recommendation by the Lord Chancellor, who is a member of the cabinet. The right of the courts to declare legislation unconstitutional is deemed inconsistent in Great Britain with the powers of King, Lords and Commons in Parliament. Lord Coke claimed that the judges of the common law might hold a statute void either as against reason and natural law or because of infringement on royal prerogative.¹ Blackstone also expressed the view that judges might hold a statute void if it contravened the law of nature, but these theories are not deemed now a part of British jurisprudence.² However the British Courts, through processes of interpretation, attempt to protect basic individual rights from government interference.

Judges hold office for life. There are two Courts of Appeal which hear appeals from the High Court. The ultimate court of appeal is the House of Lords.

The highest authority in England for appeals for all the King's lands beyond the seas is the judicial committee of the Privy Council. Technically its judgment amounts to advice and recommendations to the

¹ 8 Rep. 118; also Maitland, *The Constitutional History of England*, p. 301.

² See Maitland, p. 201.

Crown which result in an order in council. The Privy Council also is a court of appeal from ecclesiastical courts of England.

AREA, POPULATION, LANGUAGE

The United Kingdom has an area of 94,300 square miles and a population of about 48,000,000. English is the language used in it and in most of the units of the British Commonwealth of Nations.

MAGNA CHARTA

1215

JOHN BY THE GRACE OF GOD, KING OF ENGLAND, LORD of Ireland, duke of Normandy and Aquitaine, and count of Anjou, to his archbishops, bishops, abbots, earls, barons, justiciars, foresters, sheriffs, reeves, servants, and to all his bailiffs and faithful subjects, greeting. Know that we, having regard to God and the safety of our soul, and those of all our ancestors and heirs, to the honour of God, and the exaltation of holy church, and the betterment of our realm, by the advice of our reverend fathers, Stephen, archbishop of Canterbury, primate of all England, and cardinal of the holy Roman church, Henry, archbishop of Dublin, William of London, Peter of Winchester, Jocelin of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, and Benedict of Rochester, bishops; master Pandulph, the Pope's subdeacon and household official; brother Aymeric, master of the Knights of the Temple in England; and of the noble persons, William Marshal, earl of Pembroke, William, earl of Salisbury, William, earl of Warenne, William, earl of Arundel; Alan de Galloway, constable of Scotland, Warin Fitz-Gerald, Peter Fitz-Herbert, Hubert de Burgh, seneschal of Poitou, Hugh de Neville, Matthew Fitz-Herbert, Thomas Basset, Alan Basset, Philip d'Aubigny, Robert de Roppelay, John Marshal, John Fitz-Hugh, and others of our faithful men,

1. Have, in the first place granted to God, and by this our present charter confirmed for us and our heirs for ever, that the English church shall be free, and enjoy her rights in their integrity and her liberties inviolate; and we will that it be so observed; and this is manifest from this, that we, of our mere and unconstrained will, before the contest between us and our barons had arisen, granted, and by our charter confirmed and procured to be confirmed by pope Innocent III, the freedom of elections which is most important and essential to the English church; and this we will observe and wish to be observed in good faith by our heirs for ever. We have also granted to all the freemen of our kingdom, for us and for our heirs for ever, all the underwritten liberties, to have and to hold to them and to their heirs, of us and of our heirs.

2. If any of our earls or barons, or others who hold of us in chief by knight's service, shall die, and at the time of his death his heir shall be of full age and owe a relief, he shall have his inheritance by the old relief,

namely, the heir or heirs of an earl by paying one hundred pounds for the whole barony of an earl; the heir or heirs of a baron by paying one hundred pounds for a whole barony; the heir or heirs of a knight by paying one hundred shillings at most for a whole knight's fee; and he that oweth less shall give less according to the ancient custom of fees.

3. But if the heir of any such shall be under age and in ward, he shall have his inheritance without relief or fine when he comes of age.

4. The guardian of the land of any such heir being under age, shall take therefrom only reasonable issues, customs, and services, and this without destruction or waste of men or goods; and if we commit the custody of any such lands to the sheriff, or to any other who is answerable to us for the issues thereof, and he shall make destruction and waste of his wardship, we will take amends of him, and the land shall be committed to two lawful and discreet men of that fee, who shall be answerable for the issues to us or to whomsoever we shall assign them; and if we sell or give to any one the wardship of any such lands, and he commit destruction or waste therein, he shall lose the wardship and it shall be committed to two lawful and discreet men of that fee who shall answer to us as aforesaid.

5. But the guardian, so long as he shall have the wardship of the land, shall keep up the houses, parks, fish-ponds, pools, mills and other appurtenances, from the issues of the land; and he shall restore to the heir, when he comes of age, his whole estate stocked with ploughs and tillage, as the season may require and the issues of the land can reasonably bear.

6. Heirs shall be married without disparagement, yet so that before the marriage takes place, those who are near in blood to the heir shall have notice.

7. A widow after the death of her husband shall immediately and without obstacle have her marriage-portion and her inheritance, nor shall she give anything for her dower, marriage-portion, or inheritance which she and her husband held on the day of his death; and she may remain in her husband's house for forty days after his death, within which time her dower shall be assigned to her.

8. No widow shall be distrained to marry so long as she wishes to live without a husband; provided that she gives security that she will not marry without our consent, if she holds of us, or that of the lord of whom she holds, if she holds of another.

9. Neither we nor our bailiffs shall seize any land or rent for any debt so long as the chattels of the debtor are sufficient to repay the debt; nor shall the debtor's sureties be distrained so long as the chief debtor is able to pay the debt; and if the chief debtor shall fail to pay the debt, having nothing wherewith to pay it then the sureties shall answer for it; and, if they will, they shall have the lands and rents of the debtor, until they shall be satisfied for the debt which they paid for him, unless the chief debtor can show himself to be quit thereof against them.

10. If anyone has borrowed from the Jews any sum, great or small, and shall die before the debt is paid, the debt shall not bear interest while the heir is under age, of whomsoever he may hold; and if the debt falls into our hands, we will only take the principal sum mentioned in the deed.

11. And if anyone shall die indebted to the Jews, his wife shall have her dower, and pay nothing of that debt; and if the children of the deceased be left under age, necessities shall be provided for them according to the estate of the deceased, and out of the residue the debt shall be paid,

saving the service due to the lords; in like manner it shall be done concerning debts due to others than Jews.

12. No scutage or aid shall be imposed in our kingdom, except by the common counsel of our kingdom, except for ransoming our person, knight- ing our eldest son, and once for marrying our eldest daughter, and for these only a reasonable aid shall be paid: likewise shall it be done concern- ing aids from the city of London.

13. And the city of London shall have all its ancient liberties and free customs, as well by land as by water. Further, we will and grant that all other cities, and boroughs, and towns, and ports, shall have all their liber- ties and free customs.

14. And for obtaining the common counsel of the realm, concerning the assessment of aids other than in the three cases aforesaid, or for as- sessing a scutage, we will cause to be summoned the archbishops, bishops, abbots, earls, and greater barons, singly by our letters; and further we will cause to be summoned in general, by our sheriffs and bailiffs, all those who hold of us in chief; for a fixed day, namely, forty days after their summons at least, and at a fixed place; and in all letters of such summons we will explain the cause thereof; and the summons being thus made, the business shall proceed on the appointed day according to the advice of those who are present, even if all who are summoned do not come.

15. We will not in future give leave to any one to take an aid from his free men, except for redeeming his person, or knight- ing his eldest son, or once marrying his eldest daughter, for which only a reasonable aid shall be levied.

16. No man shall be distrained to perform more service for a knight's fee, or other free tenement, than is due therefrom.

17. Common pleas shall not follow our court, but shall be held in some appointed place.

18. Inquests of Novel Disseisin, Mort d'Ancestor, and of Darrein Pre- sentment, shall only be taken in their proper counties, and in this fashion: we, or if we should be out of the realm, our chief justiciar, will send two justices through each shire four times a year, who, with four knights of each shire, elected by the shire, shall hold the said assizes in the shire, on the day and in the place of meeting of the shire court.

19. And if the said assizes cannot be held on the days of the shire court, as many knights and free tenants shall remain of those who were present at that court, as may be required for the administration of justice, according as the business be more or less.

20. A free man shall be amerced for a small crime only according to its measure; and for a great crime he shall be amerced according to its great- ness, saving his position; and a merchant likewise saving his trade, and a villein saving his tillage, if they have fallen into our mercy; and none of the said amercements shall be imposed except by the oath of honest men of the neighbourhood.

21. Earls and barons shall only be amerced by their peers, and accord- ing to the measure of their offence.

22. A clerk shall be amerced for his lay tenement only after the manner of the other persons aforesaid, and not according to the value of his ecclesiastical benefice.

23. Nor shall any vill or man be distrained to make bridges over rivers, except those that were of old legally bound to do so.

24. No sheriff, constable, coroners, or other our bailiffs shall hold the pleas of the crown.

25. All shires, hundreds, wapentakes, and tithings shall be at the old farms, without any increase, except our demesne manors.

26. If any one holding a lay fief of us shall die, and our sheriff or bailiff shall show our letters patent of summons for a debt which the deceased owed to us, our sheriff or bailiff may seize and register the chattels of the deceased found on his lay fee, to the value of that debt, by the view of lawful men, so that nothing be removed therefrom until the clear debt be paid; and the residue shall be left to the executors to carry out the will of the deceased; and if nothing is due to us from him, all his chattels shall remain to the deceased, saving to his wife and children their reasonable shares.

27. If any free man shall die intestate, his chattels shall be distributed by the hands of his near kinsfolk and friends, by view of the church, saving to everyone the debts which the deceased owed to him.

28. No constable or other our bailiff shall take the corn or other chattels of any one, without immediate payment for it, unless the seller allows him a respite.

29. No constable shall distrain any knight to give money for castle-guard, if he wishes to do the service in his own person, or by another suitable man, if for any reasonable cause he cannot do it himself; and if we lead or send him to war, he shall be free of castle-guard for the time during which he has been in the army because of us.

30. No sheriff or bailiff of ours, or any one else, shall take the horses or carts of any free man for carrying-service against the will of the said free man.

31. Neither we nor our bailiffs shall take another man's timber, for our castles, or other business of ours, except with the consent of the owner thereof.

32. We will only keep the lands of persons found guilty of felony for a year and a day, when they shall be restored to the lords of the fees.

33. All fish-weirs shall henceforth be entirely removed from the Thames and the Medway, and throughout all England, except on the sea coast.

34. The writ called *Praecipe* shall not in future be issued to anyone concerning any tenement whereby a freeman may lose his court.

35. There shall be one measure of wine throughout our kingdom, and one of ale, and one of corn, namely the London quarter, and one breadth of dyed cloth, russetts, and haberjects, namely, two ells between the selvedges; and with weights it shall be as with measures.

36. Nothing shall in future be given or taken for a writ of inquisition of life or limbs, but it shall be freely granted and not denied.

37. If any one holds of us by fee-farm, or by socage, or by burgage, and holds land of another by knight's service, we shall not have the wardship of his heir nor of the land which is of another's fee, by reason of that fee-farm, or socage, or burgage; nor shall we have the wardship of that fee-farm, socage, or burgage unless the fee-farm owes knight's service. Nor shall we have the wardship of anyone's heir or land which he holds of another by knight's service, by reason of any petty serjeanty which he holds of us by rendering us knives, arrows or the like.

38. No bailiff shall in future put any one to trial, upon his bare word, without credible witnesses to support it.

39. No free man shall be taken, or imprisoned, or disseised, or outlawed, or exiled, or in any way destroyed, nor will we go upon him, nor will we send against him, except by the lawful judgment of his peers or by the law of the land.

40. To none will we sell, to none will we deny, or delay, right or justice.

41. All merchants shall be safe and secure to leave, enter, dwell in, and travel through England, as well by land as by water, to buy and to sell, free of all evil tolls, by the ancient and right customs, except in time of war, if they are of the land which is warring against us; and if any such are found in our land at the onset of war, they shall be attached without harm to their bodies or goods, until it shall be known to us or to our chief justiciar, how the merchants of our land are treated, if they are found in the land warring against us; and if ours are safe there, the others shall be safe in our land.

42. It shall be lawful in future for anyone to leave our kingdom, and to return, safe and sound, by land and by water, saving the allegiance due to us, except for a short space in time of war, for the common good of the kingdom, except those imprisoned and outlawed according to the law of the land, and persons from a land hostile to us, and merchants who shall be dealt with as is aforesaid.

43. If anyone holding of some escheat, as of the honour of Wallingford, Nottingham, Boulogne, Lancaster, or of other escheats, which are in our hand and are baronies, shall die, his heir shall not give any relief, nor shall he do service to us other than that which he did to the baron, if that barony was in the hand of a baron; and we shall hold it in the same way as the baron held it.

44. Men dwelling without the forest shall in future not come before our justices of the forest by common summonses, unless they have been impleaded, or are sureties for any person or persons impleaded for forest offences.

45. We will not appoint justices, constables, sheriffs, or bailiffs, except of such as know the law of the kingdom and are of a mind to keep it well.

46. All barons who have founded abbeys, concerning which they have charters of the kings of England, or of which they have ancient tenure, shall have the wardship of them when vacant, as they ought to have.

47. All forests made in our time shall immediately be disafforested; and so shall it be done concerning river-banks which have in our time been made by us into preserves.

48. All evil customs concerning forests and warrens, and foresters, warreners, sheriffs and their servants, river-banks and their wardens, shall be immediately inquired into in each shire by twelve sworn knights of the same shire, who are to be elected by honest men thereof, and within forty days after the making of the inquisition such customs shall be utterly and irrevocably destroyed by them, provided that we, or our justiciar if we are not in England, previously have knowledge of it.

49. We will immediately restore all hostages and charters delivered to us by Englishmen as sureties of peace or loyal service.

50. We will entirely remove from their bailiwicks the relatives of Gerard of Athée, Engelard of Cigogné, Peter, Guy, and Andrew of Chanceaux, Guy of Cigogné, Geoffrey of Martigny and his brothers, Philip Mark and his brothers, and Geoffrey his nephew, and all their followers.

51. And immediately after the restoration of peace we will expel from the kingdom all foreign knights, cross-bowmen, serjeants, and mercenary soldiers, who have come with horses and arms to the damage of the kingdom.

52. If any one has been dispossessed or removed by us without the lawful judgment of his peers, from his lands, chattels, liberties, or rights, we will immediately restore him to them; and if a dispute arise over this, then it shall be settled by the verdict of the twenty-five barons, of whom mention is made below in the clause for securing the peace: but with regard to all those things whereof anyone has been dispossessed or deprived without the lawful judgment of his peers, by king Henry our father or king Richard our brother, and which we have in our hand, or which others hold to whom we are bound to warrant them, we shall have respite until the usual term of crusaders; except those concerning which a plea has been begun or an inquisition taken by our command, before our assumption of the cross: and when we have returned from our pilgrimage, or if by chance we have remained behind from it, we will at once do full justice therein.

53. We shall have, moreover, the same respite, and in the same way, in doing justice in disafforesting or remeasuring the forests, which Henry our father or Richard our brother afforested, and concerning the wardship of lands which are of another's fee, and which we have hitherto held by reason of a fee which someone held of us by knight's service, and concerning abbeys founded on a fee other than our own, in which the lord of the fee claims the right; and when we have returned, or if we remain behind from our pilgrimage, we will do full justice to all who complain of such things.

54. No one shall be taken or imprisoned upon the appeal of a woman for the death of any other than her husband.

55. All fines made with us unjustly and against the law of the land, and all amercements levied unjustly and against the law of the land, shall be entirely pardoned, or else a verdict shall be given by the twenty-five barons, of whom mention is made below in the clause for securing the peace, or by the verdict of the greater part of them, together with the said Stephen, archbishop of Canterbury, if he can be present, and others whom he may wish to summon for this purpose: and if he cannot be present, the business shall nevertheless proceed without him, provided that if any one or more of the said twenty-five barons be concerned in a plaint of this kind, he or they shall be removed for this occasion, and another or others, elected and sworn by the rest of the twenty-five for this time only, shall complete the number.

56. If we have dispossessed or removed Welshmen from lands or liberties or other things, without the lawful judgment of their peers, in England or in Wales, they shall at once be restored to them; and if a dispute arises over this, then it shall be settled in the March by the judgment of their peers, according to the law of England with regard to English tenements, the law of Wales as to Welsh tenements, and the law of the March as to Marcher tenements. Welshmen shall do the same to us and ours.

57. Further, with regard to all those things of which any Welshman has been dispossessed or deprived without the lawful judgment of his peers, by king Henry our father or king Richard our brother, and which we hold in our hand, or which are held by others to whom we are bound to warrant them, we shall have a respite until the usual term of crusaders, those things excepted concerning which a plea has been begun or an in-

quisition made by our order before our assumption of the cross: but when we have returned, or if by chance we have remained behind from our pilgrimage, we shall at once do full justice to them therein, according to the laws of the Welsh and the said regions.

58. We will at once restore the son of Llewelyn, and all the hostages from Wales, and the charters which were delivered to us as security for the peace.

59. We will act towards Alexander king of the Scots, with regard to his sisters, and the return of hostages, and his liberties, and his right, in the manner as we shall act to our other barons of England, unless it ought to be otherwise according to the charters which we have from William his father, formerly king of the Scots; and this shall be done by the judgment of his peers in our court.

60. Moreover, all these said customs and liberties which we have granted to be observed in our realm in so far as pertains to us towards our men, as well clerk as lay, they shall themselves observe towards their own men.

61. And whereas we, for the honour of God and the betterment of our realm, and for the better allaying of the quarrel arisen between us and our barons, have granted all these things aforesaid, we, wishing that they be for ever enjoyed wholly and inviolate, establish and grant to them the following security; namely that the barons shall elect any twenty-five barons of the kingdom as they will, and these with all their power shall keep, hold, and cause to be kept the peace and liberties which we have granted to them, and by this our present charter confirmed to them, provided that if we, or our justiciar, or our bailiffs, or any of our servants, in any way fall away from them, or transgress any of the articles of peace or security, and the offence be shown to four barons of the said twenty-five, those four barons shall come before us or our justiciar if we are out of the kingdom, laying the offence before us, and asking that we cause it to be amended without delay. And if we do not amend it, or, if we are out of the kingdom and our justiciar does not amend it within forty days from the time when it was brought before us or before our justiciar if we should be out of the kingdom, the said four barons shall refer the matter to the rest of the twenty-five barons, who with the commonalty of the whole land shall distrain and grieve us in whatsoever way they can, namely by the seizure of castles, lands, possessions, and in any other way they can, until the reform is made according to their judgment, saving our person and that of our queen and children; and when it is done they shall obey us as before. And whosoever in the land wishes may take oath that he is ready, for the execution of the aforesaid matters, to obey the orders of the said twenty-five barons, and that he and his men will grieve us as best he may, and we publicly and freely allow any one to take oath who so wishes, and to none shall it ever be denied. All those, moreover, in the land who of themselves and of their own accord are unwilling to swear to the twenty-five barons, with regard to distraining and grieving us with them, we shall cause to take oath by our command, as is aforesaid. And if any of the twenty-five barons shall die, or leave the country, or in any other way be prevented from executing the aforesaid, those who remain of the said twenty-five barons shall elect another in his room, at their discretion, and he shall be sworn in like manner as the others. Further, in all things which are referred to the said twenty-five barons to execute, if by

chance all the twenty-five are present, and a dispute arises among them about anything, or some of those who are summoned are unwilling or unable to attend, the verdict of the majority of those present shall be regarded as firm and binding, as if all the twenty-five had agreed to it; and the said twenty-five shall swear that they will loyally keep the aforesaid, and cause it to be kept in so far as they can. And we will procure nothing from anyone, by ourselves or through another, by which any of these concessions and liberties might be revoked or diminished; and if any such thing has been procured let it be null and void, and we will never use it personally or by another.

62. And all ill-will, wrath, and bitterness, that has arisen between us and our men, clerk and lay, from the time of the dispute, we have fully remitted and pardoned to all. Furthermore, all trespasses made by reason of the said dispute, from Easter in the sixteenth year of our reign until the re-establishment of peace, we have fully remitted to all, clerk and lay, and completely forgiven, as far as in us lies. And further we have caused to be made for them letters patent of witness of the lord Stephen, archbishop of Canterbury, of the lord Henry, archbishop of Dublin, and of the said bishops, and of master Pandulf, concerning this security and the grants aforesaid.

63. Wherefore we wish and firmly enjoin that the English church be free and that the men in our kingdom have and hold all the aforesaid liberties, rights, and grants, well and in peace, freely and quietly, fully and wholly, to them and their heirs, of us and our heirs, in all things and places, forever as is aforesaid. This has been sworn to as well on our part as on the part of the barons, that all the aforesaid shall be kept in good faith and without malice.

Given under our hand,
the above-named and many others being witnesses,
in the meadow which is called Runnymede,
between Windsor and Staines, on the fifteenth day of June,
in the seventeenth year of our reign.

THE GREAT CHARTER OF THE LIBERTIES OF ENGLAND AND OF THE LIBERTIES OF THE FOREST

**confirmed by King Edward in the twenty-fifth year
of his reign (1297)**

Edward, by the grace of God, King of England, Lord of Ireland and Duke of Guyan (to all archbishops, bishops, etc.). We have seen the Great Charter of the Lord Henry sometime King of England, our father, of the liberties of England in these words.

Henry, by the grace of God, King of England, Lord of Ireland, Duke of Normandy and Guyan, and Earl of Anjou to all archbishops, bishops, abbots, priors, earls, barons, sheriffs, provosts, officers, and to all bailiffs, and other our faithful subjects, which shall see this present charter, greeting: Know ye that we, unto the honor of Almighty God, and for the salvation of the souls of our progenitors and successors (Kings of England), to the advancement of the holy church and amendment of our realm, of our meer and free will, have given and granted to all archbishops, bishops, abbots, priors, earls, barons, and to all freemen of this our realm, these liberties following to be kept in the kingdom of England forever.

Chapter 1. Confirmation of Liberties

First, we have granted to God and by this our present charter have confirmed, for us and our heirs forever, that the church of England shall be free and shall have all her whole rights and liberties inviolable. We have granted also, and given to all the freemen of our realm, for us and our heirs forever, these liberties underwritten, to have and to hold to them and their heirs, of us and our heirs forever.

[Chapters 2-6 repealed as to England, 26 & 27 Vict. c. 125 (SLR); as to Ireland, 35 & 36 Vict. c. 98 (SLR).]

Chapter 7. Widow—Her Marriage Estate— Quarantine—Estovers—Dower—Remarriage

A widow after the death of her husband, incontinent, and without any difficulty shall have her [marriage¹] and her inheritance which her husband and she held the day of the death of her husband; and she shall tarry in the chief house of her husband by forty days after the death of her husband, within which days her dower shall be assigned her, if it were not assigned her before, or that the house be a castle, then a competent house shall be forthwith provided for her in the which she may honestly dwell, until her dower be to her assigned as it is aforesaid; and she shall have in the meantime her reasonable estovers [of the common.²] And for her dower shall be assigned unto her the third part of all the lands of her

¹ Marriage estate.

² Out of the common estate.

husband, which were his [during coverture¹] except she were endowed of less at the church door. No widow shall be [distrained to marry herself.²] Nevertheless she shall find surety that she shall not marry without our license and assent, if she hold of us, nor without the assent of the lord if she hold of another.

[This chapter was repealed as to deaths after 1925 by the Administration of Estates Act, 1925.]

Chapter 8. The King's Debtor

We, or our bailiffs, shall not seize any land or rent for any debt as long as the present goods and chattels of the debtor do suffice to pay the debt, and the debtor himself be ready to satisfy therefor. Neither shall the pledges of the debtor be distrained, as long as the principal debtor is sufficient for the payment of the debt; and if the principal debtor fail in payment of the debt, having nothing wherewith to pay, or will not pay where he is able, the pledges shall answer for the debt; and if they will, they shall have the lands and rents of the debtor, until they be satisfied of that which they before paid him, except that the debtor can show himself to be acquitted against the said sureties.

Chapter 9. Liberties of London, etc.

The city of London shall have all the old liberties and customs [which it hath been used to have]. Moreover we will and grant that all other cities, boroughs, towns, and the barons of the five ports and all other ports, shall have all their liberties and free customs.

Chapter 10. Distress for Services

No man shall be distrained to do more service for a knight's fee, nor any freehold than therefore is due.

[Chapters 11, 12 repealed, 42 & 43 Vict. c. 59; Chapter 13 repealed, 26 & 27 Vict. c. 125 (SLR).]

Chapter 14. Amercements

A freeman shall not be amerced for a small fault, but after the manner of the fault, and for a great fault, after the greatness thereof, saving to him his contenement³; and a merchant likewise saving him to his merchandise; and any other's villain than ours shall be likewise amerced, saving his wainage, if he fall into our mercy. And none of the said ameracements shall be assessed but by oath of honest and lawful men of the vicinage. Earls and barons shall not be amerced but by their peers, and after the manner of their offense. No man of the church shall be amerced after the quantity of his spiritual benefice, but after his lay tenement, and after the quantity of his offence.

Chapter 15. Making of Bridges

No town nor freeman shall be distrained to make bridges (nor banks⁴) but such as of old time and of right have been accustomed to make them (in time of King Henry our grandfather).

¹ In his life.

² While she chooses to remain single.

³ Countenance.

⁴ Over rivers.

Chapter 16. Obstructing of Rivers

No banks¹ shall be defended from henceforth, but such as were in defence in the time of King Henry our grandfather, by the same places and the same bounds, as they were wont to be in his time.
[Chapter 17 repealed, 55 & 56 Vict. c. 19 (SLR).]

Chapter 18. The King's Tenant his Debtor

If any that holdeth of us lay fee do die, and our sheriff or bailiff do show our letters patents of our summon for debt, which the dead man did owe to us, it shall be lawful to our sheriff or bailiff to attach or inroll all the goods and chattels of the dead being found in the (said fee,²) to the value of the same debt, by the sight and testimony of lawful men: So that nothing thereof shall be taken away until (we be clearly paid off the debt;³) (and the residue shall remain to the executors. to perform the testament of the dead; and if nothing be owing unto us,⁴ all of the chattels shall go to the use of the dead; saving to his wife and children their reasonable parts).

Chapters 19-21 repealed, 26 & 27 Vict. c. 125 (SLR).]

Chapter 22. Lands of Felons

We will not hold the lands of them that be convict of felony but one year and one day and then those lands shall be delivered to the lord of the fee.

Chapter 23. Wears

All wears from henceforth shall be utterly put down by Thames and Medway, and through all England, but only by the seacoast.
[Chapter 24 repealed, 26 & 27 Vict. c. 125 (SLR).]

Chapter 25. Measures and Weights

One measure of wine shall be through our realm, and one measure of ale, and one measure of corn, that is to say, the quarter of London; and one breadth of dyed cloth, russets and haberjects, that is to say two yards within the lists. And it shall be of weights as it is of measures.
[Chapter 26 repealed, 9 Geo. 4. c. 31; Chapters 27, 28 repealed, 26 & 27 Vict. c. 125 (SLR).]

Chapter 29. Imprisonment etc. Contrary to Law

No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or in any other wise destroyed; nor will we not pass upon him nor (condemn him,⁵) but by the lawful judgment of his peers or by the law of the land. We will sell to no man, we will not deny or defer to any man either justice or right.

Chapter 30. Foreign Merchants

All merchants, if they were not openly prohibited before, shall have their safe and sure conduct to depart out of England, to tarry in, and go through England, as well by land as by water, to buy and sell without any

¹ Rivers.

² Lay fee.

³ There be paid unto us the debt which shall have been proved.

⁴ By him.

⁵ Deal with him.

manner of (evil tolts ¹) by the old and rightful customs, except in time of war; and if they be of a land making war against us, and be found in our realm at the beginning of the wars, they shall be attached without harm to body or goods, until it be known to us, or our chief justice, how our merchants be entreated (there in ²) the land making war against us; and if our merchants be well intreated there, theirs shall be likewise with us. [Chapters 31, 33-34, 36 repealed, 26 & 27 Vict. c. 125 (SLR); Chapter 32 repealed, 50 & 51 Vict. c. 59 (SLR); Chapter 35 repealed, 50 & 51 Vict. c. 55.]

Chapter 37. *Escuage*

[Escuage from henceforth shall be taken like as it was wont to be in the time of King Henry our grandfather. (Repealed as to England, 26 & 27 Vict. c. 125 [SLR]; as to Ireland, 35 & 36 Vict. c. 98 [SLR].) Reserving to all archbishops, bishops, abbots, priors, templars, hospitallers, earls, barons, and all persons, as well spiritual as temporal all their (free liberties ³) and free customs, which they have had in times passed. And all these customs and liberties aforesaid, which we have granted to be holden within this our realm (as much as appertaineth to us and our heirs, we shall observe; and ⁴) all men of this our realm, as well spiritual as temporal, (as much as in them is, shall observe the same against all persons in like wise ⁵). And for this our gift and grant of these liberties and of other contained in our charter of liberties of our forest, the archbishops, bishops, abbots, priors, earls, barons, knights, freeholders, and other our subjects, have given unto us the fifteenth part of all their moveables. And we have granted unto them on the other party, ⁶ that neither we nor our heirs shall procure or do anything whereby the liberties in this charter contained shall be infringed or broken. And if anything be procured by any person contrary to the premises, it shall be had of no force nor effect. These being witnesses:

[A list of sixty-three names follows.]

We ratifying and approving these gifts and grants aforesaid, confirm and make strong all the same for us and our heirs perpetually and by the tenor of these presents do renew the same; Willing and granting for us and our heirs that (this charter and ⁷) all and singular his articles for ever shall be steadfastly, firmly, and inviolably observed; (and if ⁸) any article in the same charter contained yet hitherto peradventure hath not been kept (we will and by authority royal command from henceforth firmly they be observed ⁹).

In witness whereof we have caused these our letters patents to be made. (To Edward our son at Westminster the twenty-eighth day of March in the twenty-eighth year of our reign.¹⁰)

¹ Evil tolles.

² Who are then found in.

³ Liberties.

⁴ On our part, towards our men.

⁵ Shall observe on their part towards their men.

⁶ For us and our heirs.

⁷ The charter aforesaid in.

⁸ Even although.

⁹ Not in original.

¹⁰ The old translation read: "These reverend fathers being witnesses: R. Archbishop of Canterbury Primate of England, A. Bishop of Duresune, and other; Given at Westminster with our own hand the twenty-eighth day of March the twenty-eighth year of our realm."

CONFIRMATION OF THE CHARTERS 1297 (25 Edw. 1)

Chapter 1. Confirmation of the Charters

Edward, by the grace of God, King of England, Lord of Ireland, and Duke of Guyan to all those that these present letters shall hear or see, greeting. Know ye that we, to the honor of God, and of holy church, and to the profit of our realm, have granted for us and our heirs, that the Charter of Liberties, and the Charter of the Forest which were made by the common assent of all the realm, in the time of King Henry our father, shall be kept in every point without breach. And we will that the same charters shall be sent under our seal, as well to our justices of the forest as to others, and to all sheriffs of shires and to all our other officers, and to all our cities throughout the realm, together with our writs, in which it shall be contained, that they cause the aforesaid charters to be published, and to declare to the people that we have confirmed them in all points; and (that ¹) our justices, sheriffs, mayors and other ministers, which under us ² have the laws of our land to guide, (shall allow the said charters pleaded before them in judgment in all their points;³) that is to wit, the Great Charter as the common law, and the Charter of the Forest⁴ for the wealth of our realm.

Chapter 2. Judgments against the Charters Void

And we will that if any judgment be given from henceforth contrary to the points of the charters aforesaid by the justices, or by any other our ministers that hold plea before them against the points of the charters, it shall be undone and holden for nought.

[Chapters 3 and 4 repealed, 50 & 51 Vict. c. 59 (SLR).]

Chapter 5. Aids, Tasks and Prises Granted to the King Shall Not Be Taken for a Custom

And for so much as divers people of our realm are in fear, that the aids and tasks which they have given us beforetime towards our wars and other business, of their own grant and goodwill, howsoever they were made, might turn to a bondage to them and their heirs, because they might be at another time found in the rolls, and (likewise for ⁵) the prises taken throughout the realm by our ministers;⁶ we have granted for us and our heirs, that we shall not draw such aids, tasks, nor prises into a custom, for anything that hath been done heretofore, (be it by roll or any other precedent that may be founden⁷).

Chapter 6. No Aids or Prises Shall Be Taken but by Consent of the Realm

Moreover we have granted for us and our heirs as well to archbishops, bishops, abbots, priors, and other folk of the holy church, as also to earls, barons, and to all the commonalty of the land that for no business from henceforth we shall take ⁸ such manner of aids, tasks, nor prises but by

¹ To.

² And by us.

³ That they allow the same charters in all their points, in pleas before them, and in their judgments.

⁴ According to the assize of the forest.

⁵ So likewise.

⁶ In our name.

⁷ Or that may be found by roll or in any other manner.

⁸ Of our realm.

the common assent of the realm, and for the common profit thereof, saving the ancient aids and prizes due and accustomed.

Chapter 7. A Release of Toll for Wool

And for so much as the more part of the commonalty of the realm find themselves sore grieved with the (maletent¹) of woolls, that is to wit, a toll of forty shillings for every sack of wooll, and have made petition to us to release the same; we at their requests have clearly released it, and have granted (for us and our heirs) that we shall not take (such thing²) without their common assent and good will; saving to us and our heirs the custom of woolls, skins, and leather, granted before by the commonalty aforesaid. In witness of which things we have caused these our letters to be made patents. Witness Edward our son at London the tenth day of October, the five and twentieth year of our reign.

And be it remembered that this same charter, in the same terms, word for word, was sealed in Flanders under the King's great seal, that is to say, at Ghent the fifth day of November in the twenty-fifth year of the reign of our aforesaid lord the King, and sent into England.

STATUTE CONCERNING TALLAGE 1297

Chapter 1. No Tallage or Aid without the Assent of Parliament

No tallage or aid shall be taken or levied by us or our heirs in our realm without the good will and assent of archbishops, bishops, earls, barons, knights, burgesses, and other freemen of the land.

Chapter 2. No Purveyance without the Owner's Consent

No officer of ours or of our heirs shall take corn, leather, cattle, or any other goods, of any manner of person, without the good will and assent of the party to whom the goods belonged.

Chapter 3. No maletolte

Nothing from henceforth shall be taken of sacks of wool, by color or occasion of maletolte.

Chapter 4. All Laws, Liberties, and Customs Confirmed

We will and grant for us and our heirs, that all clerks and laymen of our land shall have their laws, liberties, and free customs, as largely and wholly as they have used to have the same at any time when they had them best; and if any statutes have been made by us or our ancestors, or any customs brought in contrary to them, or any manner of article contained in this present charter, we will and grant, that such manner of statutes and customs shall be void and frustrate for evermore.

THE PETITION OF RIGHT 1627

The Petition exhibited to His Majesty by the Lords Spiritual and Temporal and Commons in this present Parliament assembled concerning divers rights and liberties of the Subject; with the King Majesties Royal Answer thereunto in full Parliament.

¹ Unjust tolls.

² Such thing, nor any other.

To the King's most excellent Majesty.

Humbly show unto our sovereign Lord the King, the lords spiritual and temporal and commons in Parliament assembled that

1. Reciting that by (25) 34 Edw. I, st. 4. c. 1, by authority of Parliament holden 25 Edw. 3, and by other laws of this realm, the King's subjects should not be taxed but by consent of Parliament. Whereas it is declared and enacted by a Statute made in the time of the reign of King Edward the First commonly called Statutum de Tallagio non concedendo, that no tallage or aid should be laid or levied by the King or his heirs in this realm without the good will and assent of the archbishops, bishops, earls, barons, knights, burgesses, and other freemen of the commonalty of this realm, and by the authority of Parliament holden in the five and twentieth year of the reign of King Edward the Third, it is declared and enacted that from henceforth no person should be compelled to make any loans to the king against his will because such loans were against reason and the franchise of the land, and by other laws of this realm it is provided, that none should be charged by any charge or imposition called a benevolence nor by such like charge by which the statutes before mentioned and other the good laws and statutes of this realm your subjects have inherited this freedom that they should not be compelled to contribute to any tax, tallage, aid or other like charge not set by common consent in Parliament.

2. And that commissions have of late issued on which proceedings have been contrary to law. Yet nevertheless of late divers commissions directed to sundry commissioners in several counties with instructions have issued, by means whereof your people have been in divers places assembled and required to lend certain sums of money unto your Majesty, and many of them upon their refusal so to do have had an oath administered unto them not warrantable by the laws or statutes of this realm and have been constrained to become bound to make appearance and give attendance before your privy council and in other places; and others of them have been therefore imprisoned, confined, and in sundry other ways molested and disquieted and divers other charges have been laid and levied upon your people in several counties by lord lieutenants, deputy lieutenants, commissioners for musters, justices of the peace and other by command or direction from your Majesty or your privy council against the laws and free customs of the realm.

3. Reciting 9 Hen. 3, M.C.c.29. And whereas also by the Statute called the Great Charter of the Liberties of England, it is declared and enacted, that no freeman may be taken or imprisoned or disseised of his freehold or liberties or his free customs or be outlawed or exiled or in any manner destroyed, but by the lawful judgment of his peers or by the law of the land.

4. Reciting 28 Edw. 3. c. 3. And in the eight and twentieth year of the reign of King Edward the Third it was declared and enacted by authority of Parliament, that no man of what estate or condition that he be, should be put out of his land or tenements nor taken nor imprisoned nor disherited nor put to death without being brought to answer by due process of law.

5. And that divers subjects have been imprisoned without cause shown or cause of detainer certified. Nevertheless against the tenor of the said statutes and other the good laws and statutes of your realm to

that end provided, divers of your subjects have of late been imprisoned without any cause showed: And when for their delivrance they were brought before your justices by your Majesty's writ of habeas corpus there to undergo and receive as the courts should order, and their keepers commanded to certify the causes of their detainer, no cause was certified, but that they were detained by your Majesty's special command signified by the lords of your privy council and yet were returned back to several prisons without being charged with any thing to which they might answer according to the law.

6. And that soldiers have been dispersed in divers counties and inhabitants compelled to receive them.¹ And whereas of late great companies of soldiers and mariners have been dispersed into divers counties of the realm, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourn against the laws and customs of this realm and to the great grievance and vexation of the people.

7. Reciting 25 Edw. 3, and that commissions have issued under the great seal for proceedings according to martial law. And whereas also by authority of Parliament in the five and twentieth year of the reign of King Edward the Third it is declared and enacted that no man should be forejudged of life and limb against the form of the Great Charter and other laws and statutes of this your realm no man ought to be adjudged to death but by the laws established in this your realm, either by the customs of the same realm or by Acts of Parliament. And whereas no offender of what kind soever is exempted from the proceedings to be used and punishments to be inflicted by the laws and statutes of this your realm, nevertheless of late time divers commissions under your Majesty's Great Seal have issued forth by which certain persons have been assigned and appointed commissioners with power and authority to proceed within the land according to the justice of martial law against such soldiers or mariners or other dissolute persons joining with them as should commit any murder, robbery, felony, mutiny, or other outrage or misdemeanor whatsoever, and by such summary course and order as is agreeable to martial law and as is used in armies in time of war to proceed to the trial and condemnation of such offenders and them to cause to be executed and put to death according to the law martial.

By pretext whereof some of your Majesty's subjects have been by some of the said commissioners put to death, when and where, if by the same laws and statutes of the land they had deserved death, by the same laws and statutes also they might and by no other ought to have been judged and executed.

And also sundry grievous offenders by color thereof claiming an exemption have escaped the punishments due to them by the laws and statutes of this your realm, by reason that divers of your officers and ministers of justice have unjustly refused or foreborne to proceed against such offenders according to the same laws and statutes upon pretence that the said offenders were punishable only by martial law and by authority of such commissions as aforesaid. Which commissions and all other of like nature are wholly and directly contrary to the said laws and statutes of this your realm.

¹ So much as prohibits billeting, suspended so far as billeting is authorised by the Army Act 1881, 44 & 45 Vict. c. 58, 2, 102.

8. The Petition. They do therefore humbly pray your most excellent Majesty, that no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge without common consent by Act of Parliament, and that none be called to make answer or take such oath or to give attendance or be confined or otherwise molested or disquieted concerning the same or for refusal thereof. And that no freeman in any such manner as is before mentioned be imprisoned or detained. And that your Majesty would be pleased to remove the said soldiers and mariners and that your people may not be so burdened in time to come. And that the aforesaid commissions for proceeding by martial law may be revoked and annulled. And that hereafter no commissions of like nature may issue forth to any person or persons whatsoever to be executed as aforesaid, lest by color of them any of your Majesty's subjects be destroyed or put to death contrary to the laws and franchise of the land.

All which they most humbly pray of your most excellent Majesty as their rights and liberties according to the laws and statutes of this realm and that your Majesty would also vouchsafe to declare that the awards, doings, proceedings to the prejudice of your people in any of the premises shall not be drawn hereafter into consequence or example. And that your Majesty would be also graciously pleased for the further comfort and safety of your people to declare your royal will and pleasure, that in the things aforesaid all your officers and ministers shall serve you according to the laws and statutes of this realm as they tender the honor of your Majesty and the prosperity of this kingdom.

Qua quidem Petitione lecta & plenius intellecta per dictum Dominum Regem taliter est responsum in pleno Parlamento, viz., soit droit fait come est desire.

THE HABEAS CORPUS ACT, 1640 (16 Car. 1, c. 10.)

An Act for [the Regulating¹] the Privie Councill and for taking away the Court commonly called the Star Chamber

Whereas by the Great Charter [25 Edw. 1] many times confirmed in Parliament it is enacted that no freeman shall be taken or imprisoned or disseised of his freehold or liberties or free customes or be outlawed or exiled or otherwise destroyed and that the King will not passe upon him or condemn him but by lawfull judgement of his peers or by the law of the land and by another Statute made in the fifth yeare of the reigne of King Edward the Third [5 Edw. 3, c. 9] it is enacted that no man shall be attached by any accusation nor fore judged of life or [lim²] nor his lands tenements goods or chattels seised into the Kings hands against the forme of the Great Charter and the law of the land and by another Statute made in the five and twentieth yeare of the reigne of the same King Edward the Third [25 Edw. 3, st. 5, c. 4] it is accorded assented and established that none shall be taken by petition or suggestion made to the King or to his councill unlesse it be by indictment or presentment of good and lawfull people of the same neighbourhood where such deeds be

¹ Regulating of O.

² Lymne O.

done in due manner or by processe made by writ originall at the common law and that none be put out of his franchise or freehold unlesse he bee duly brought in to answer and forejudged of the same by the course of [the ¹] law and if any thing be done against the same it shall be redressed and holden for none and by another Statute made in the eight and twentieth yeare of the reigne of the same King Edward the Third [28 Edw. 3, c. 3] it is amongst other things enacted that no man of what estate or condition soever he be shall be put out of his lands or tenements nor taken nor imprisoned nor disinherited without being brought in to answer by due processe of law and by another Statute made in the two and fourtieth yeare of the reigne of the said King Edward the Third [42 Edw. 3, c. 3] it is enacted that no man be put to answer without presentment before justices or matter of record or by due processe and writ originall according to the old law of the land and if any thing be done to the contrary it shall be void in law and holden for errorr and by another Statute made in the six and thirtieth yeare of the same King Edward the Third [36 Edw. 3, c. 15] it is amongst other things enacted that all pleas which shall be pleaded in any courts before any the Kings justices or in his other places or before any of his other ministers or in the courts and places of any other lords within the realm shall be entered and inrolled in Latine And whereas by the Statute made in the third yeare of King Henry the Seaventh [3 Hen. 7, c. 1, § 1] power is given to the chancellour the lord treasurer of England for the time being and the keeper of the Kings privie seale or two of them calling unto them a bishop and a temporall lord of the Kings most honourable counsell and the two chiefe justices of the Kings Bench and Common Pleas for the time being or other two justices in their absence to proceed as in that Act is expressed for the punishment of some particular offences therein mentioned and by the Statute made in the one and twentieth yeare of King Henry the Eighth [21 Hen. 8, c. 20] the president of the counsell is associated to joyne with the lord chancellour and other judges in the said statute of the third of Henry the Seaventh mentioned. But the said judges have not kept themselves to the points limited by the said statute but have undertaken to punish where no law doth warrant and to make decrees for things having no such authoritie and to inflict heavier punishments then by any law is warranted And forasmuch as all matters examinable or determinable before the said judges or in the court commonly called the Star Chamber may have their proper remedy and redresse and their due punishment and correction by the common law of the land and in the ordinary course of justice elsewhere. And forasmuch as the reasons and motives inducing the erection and continuance of that court doe now cease and the proceedings censures and decrees of that court have by experience beene found to be an intollerable burthen to the subjects and the meanes to introduce an arbitrary power and government. And forasmuch as the counsell table hath of late times assumed unto it selfe a power to intermedle in civill causes and matters onely of private interest betweene party and party and have adventured to determine of the estates and liberties of the subject contrary to the law of the land and the rights and privileges of the subject by which great and manifold mischeifes and inconveniences have arisen and happened and much incertainty by meanes of

¹ Interlined on the roll.

such proceedings hath beene conceived concerning mens rights and estates For settling whereof and preventing the like in time to come Be it ordained and enacted by the authority of this present Parliament that

1. Court of Star Chamber and all its powers dissolved.—The said court commonly called the Star Chamber and all jurisdiction power and authority belonging unto or exercised in the same court or by any the judges officers or ministers thereof be from the first day of August in the yeare of our Lord God one thousand six hundred fourty and one cleerely and absolutely dissolved taken away and determined and that from the said first day of August neither the lord chancellour or keeper of the great seale of England the lord treasurer of England the keeper of the Kings privie seale or president of the councell nor any bishop temporall lord privy counsellor or judge or justice whatsoever shall have any power or authoritie to heare examine or determine any matter or thing whatsoever in the said court commonly called the Star Chamber or to make pronounce or deliver any judgement sentence order or decree or to doe any judicciall or ministeriall act in the said court and that all and every Act and Acts of Parliament and all and every article clause and sentence in them and every of them by which any jurisdiction power or authority is given limited or appointed unto the said court commonly called the Star Chamber or unto all or any the judges officers or ministers thereof or for any proceedings to be had or made in the said court or for any matter or thing to be drawn into question examined or determined there shall for so much as concerneth the said Court of Star Chamber and the power and authoritie thereby given unto it be from the said first day of August repealed and absolutely revoked and made void.

2. Like jurisdiction in several other courts repealed and taken away—No court or council to have the like jurisdiction.—And . . . that the like jurisdiction now used and exercised in the court before the president and councell in the marches of Wales and alsoe in the court before the president and councell established in the northern parts and also in the court commonly called the Court of the Dutchy of Lancaster held before the chancellor and councell of the court and alsoe in the Court of Exchequer of the countie palatine of Chester held before the chamberlaine and councell of that court the like jurisdiction being exercised there shall from the said first day of August one thousand six hundred fourty and one be alsoe repealed and absolutely revoked and made void any law prescription custome or usage or the said statute made in the third yeare of King Henry the Seventh or the statute made the one and twentieth of Henry the Eighth or any Act or Acts of Parliament heretofore had or made to the contrary thereof in any wise notwithstanding And that from henceforth no court councell or place of judicature shall be erected ordained constituted or appointed within this realme of England or dominion of Wales which shall have use or exercise the same or the like jurisdiction as is or hath beene used practised or exercised in the said Court of Star Chamber.

3. The King or his privy council shall have no jurisdiction over any man's estate.—Be it likewise declared and enacted by authoritie of this present Parliament that neither his Majestie nor his privie counsell have or ought to have any jurisdiction power or authority by English bill petition articles libell or any other arbitrary way whatsoever to examine or drawe into question determine or dispose of the lands tenements heredita-

ments goods or chattels of any the subjects of this kingdome but that the same ought to be tried and determined in the ordinary courts of justice and by the ordinary course of the law.

4. Great officers and others offending—First offence, penalty £500—Second offence, penalty £1000—Third offence, disabled.—And . . . that if any lord chancellor or keeper of the great seale of England lord treasurer keeper of the Kings privy seale president of the councell bishop temporall lord privy counsellour judge or justice whatsoever shall offend or doe any thing contrary to the purport true intent and meaning of this law [then he or they shall for such offence forfeit the sum of five hundred pounds of lawfull money of England unto any party grieved his executors or administrators who shall really prosecute for the same and first obtain judgement thereupon to be recorded in any court of record at Westminster by action of debt bill plaint or information wherein no essoine protection wager of law aid prayer priviledge injunction or order of restraint shall be in any wise prayed granted or allowed nor any more than [one imparlance and if any person against whom any such judgment or recovery shall be had as aforesaid shall after such judgement or recovery offend againe in the same then he or they for such offence shall forfeit the sum of one thousand pounds of lawfull money of England unto any party grieved his executors or administrators who shall really prosecute for the same and first obtain judgement thereupon to be recorded in any court of record at Westminster by action of debt bill plaint or information in which no essoine protection wager of law aid prayer priviledge injunction or order of restraint shall be in any wise prayed granted or allowed nor any more than one imparlance and if any person against whom any such second judgement or recovery shall be had as aforesaid shall after such judgement or recovery offend againe in the same kind ¹] and shall be thereof duly convicted by indictment information or any other lawfull way or meanes that such person soe convicted shall be from thenceforth disabled and become by vertue of this Act incapable ipso facto to beare his and their said office and offices respectively and shall be likewise disabled to make any gift grant conveyance or other disposition of any his lands tenements hereditaments goods or chattels or to take any benefit of any gift conveyance or legacy to his owne use.

5. Treble damages to the party grieved.—And every person so offending shall likewise forfeit and loose unto the party grieved by any thing done contrary to the true intent and meaning of this law his trebble damages which he shall sustain and be put unto by meanes or occasion of any such act or thing done the same to be recovered in any of his Majesties courts of record at Westminster by action of debt bill plaint or informacōn wherein no essoine protection wager of law aid prayer priviledge injunction or order of restraint shall be in any wise prayed granted or allowed nor any more then one imparlance.

6. Every person committed contrary to this Act shall have an habeas corpus for the ordinary fees.—And . . . if any person shall hereafter be committed restrained of his libertie or suffer imprisonment [by the order or decree of any such Court of Star Chamber or other court aforesaid now or at any time hereafter having or pretending to have the same or like jurisdiction power or authoritie to commit or imprison as aforesaid or by

¹ Annexed to the original Act in a separate schedule.

the command or warrant of the Kings Majestie his heires or successors in theire owne person or by the command or warrant of the councell board or of any of the lords or others of his Majesties privy councell ^{1]} that in every such case every person so committed restrained of his libertie or suffering imprisonment upon demand or motion made by his councell or other imployed by him for that purpose unto the judges of the Court of Kings Bench or Common Pleas in open court shall without delay upon any pretence whatsoever for the ordinary fees usually paid for the same have forthwith granted unto him a writ of habeas corpus to be directed generally unto all and every sheriffs gaoler minister officer or other person in whose custody the party committed or restrained shall be [and the sheriffs gaoler minister officer or other person in whose custody the party so committed or restrained shall be ^{2]} shall at the return of the said writ & according to the command thereof upon due and convenient notice thereof given unto him [at the charge of the party who requireth or procureth such writ and upon securitie by his owne bond given to pay the charge of carrying back the prisoner if he shall be remanded by the court to which he shall be brought as in like cases hath beene used such charges of bringing up and carrying backe the prisoner to be alwaies ordered by the court if any difference shall arise thereabout] bring or cause to be brought the body of the said party so committed or restrained unto and before the judges or justices of the said court from whence the same writ shall issue in open court and shall then likewise certifie the true cause of such his deteinor or imprisonment and thereupon the court within three court dayes after such return made and delivered in open court shall proceed to examine and determine whether the cause of such commitment appearing upon the said return be just and legall or not and shall thereupon do what to justice shall appertaine either by delivering bailing or remanding the prisoner and if any thing shall be otherwise wilfully done or omitted to be done by any judge justice officer or other person aforementioned contrary to the direction and true meaning hereof that then such person so offending shall forfeit to the party grieved his trebble damages to be recovered by such meanes and in such manner as is formerly in this Act limited and appointed for the like penaltie to be sued for and recovered.

7. To what courts this Act shall extend.—[Provided alwaies . . . that this Act and the severall clauses therein contained shall be taken and expounded to extend only to the Court of Star Chamber and to the said courts holden before the president and councell in the marches of Wales and before the president and councell in the northern parts and alsoe to the court commonly called the Court of the Dutchy of Lancaster holden before the chauncellour and councell of the court and alsoe in the Court of Exchequer of the county palatine of Chester held before the chamberlaine and councell of that court and to all courts of like jurisdiction to be hereafter erected ordained constituted or appointed as aforesaid and to the warrants and directions of the councell board and to the commitments restraints & imprisonments of any person or persons made commanded or awarded by the Kings Majesty his heires or successors in

¹ Annexed to the original Act in a separate schedule.

² Interlined on the roll.

their owne person or by the lords and others of the privie counsell and every one of them.

8. Limitation of information, etc.—And . . . no person or persons shall be sued impleaded molested or troubled for any offence against this present Act unlesse the party supposed to have so offended shall be sued or impleaded for the same within two yeares at the most after such time wherein the said offence shall be committed.]

BILL OF RIGHTS

1689

An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown

Whereas the lords spiritual and temporal and commons assembled at Westminster fully and freely representing all the estates of the people of this realm did upon the thirteenth day of February in the year of our Lord one thousand six hundred and eighty-eight present unto their Majesties then called and known by the names and style of William and Mary, Prince and Princess of Orange, being present in their proper persons, a certain declaration in writing made by the said lords and commons in the words following, viz.

Whereas the late King James the Second by the assistance of diverse evil counsellors, judges, and ministers employed by him did endeavor to subvert and extirpate the Protestant religion and the laws and liberties of this kingdom

By assuming and exercising a power of dispensing with and suspending of laws and the execution of laws without consent of Parliament.

By committing and prosecuting diverse worthy prelates for humbly petitioning to be excused from concurring to the said assumed power.

By issuing and causing to be executed a commission under the great seal for erecting a court called the court of commissioners for ecclesiastical causes.

By levying money for and to the use of the Crown, by pretence of prerogative, for other time and in other manner than the same was granted by Parliament.

By raising and keeping a standing army within this kingdom in time of peace without consent of Parliament and quartering soldiers contrary to law.

By causing several good subjects being protestants to be disarmed at the same time when papists were both armed and employed contrary to the law.

By violating the freedom of election of members to serve in Parliament.

By prosecutions in the Court of Kings Bench for matters and causes cognizable only in Parliament and by diverse other arbitrary and illegal courses.

And whereas of late years partial, corrupt and unqualified persons have been returned and served on juries in trials and particularly diverse jurors in trials for high treason which were not freeholders.

And excessive bail hath been required of persons committed in criminal cases to elude the benefit of the laws made for the liberty of subjects.

And excessive fines have been imposed.

And illegal and cruel punishments inflicted.

And several grants and promises made of fines and forfeitures before any conviction or judgment against the persons upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes and freedoms of this realm.

And whereas the said late King James the Second having abdicated the government and the throne being thereby vacant, his highness, the Prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the lords spiritual and temporal and diverse principal persons of the commons) cause letters to be written to the lords spiritual and temporal being protestants and other letters to the several counties, cities, universities, boroughs, and cinque ports for the choosing of such persons to represent them as were of right to be sent to Parliament to meet and sit at Westminster upon the two and twentieth day of January of this year one thousand six hundred and eighty-eight in order to ordain such an establishment that their religion, laws and liberties might not again be in danger of being subverted, upon which letters elections having been accordingly made.

And thereupon the said lords spiritual and temporal and commons, pursuant to their respective letters and elections, being now assembled in a full and free representative of this nation taking into their most serious consideration the best means for attaining the ends aforesaid do in the first place (as their ancestors in like cases have usually done) for the vindicating and asserting of their ancient rights and liberties, declare

Suspending power.—That the pretended power of suspending of laws and the execution of laws by regal authority without the consent of Parliament is illegal.

Late dispensing power.—That the pretended power of dispensing with laws or the execution of laws by regal authority as it hath been assumed and exercised of late is illegal.

Ecclesiastical Courts illegal.—That the commission for erecting the late court of commissioners for ecclesiastical causes and all other commissions and courts of like nature are illegal and pernicious.

Levying money.—That levying money for or to the use of the crown by pretence of prerogative without grant of Parliament for longer time or in other manner than the same is or shall be granted is illegal.

Right to Petition.—That it is the right of subjects to petition the king and all commitments and prosecutions for such petitioning are illegal.

Standing Army.—That the raising or keeping a standing army within the kingdom in time of peace unless it be with the consent of Parliament is against the law.

Subjects' arms.—That the subjects which are protestants may have arms for their defence suitable to their conditions and as allowed by law.

Freedom of election.—That the election of members of Parliament ought to be free.

Freedom of speech.—That the freedom of speech and debate or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

Excessive bail.—That excessive bail ought not to be required nor excessive fines imposed nor cruel and unusual punishment inflicted.

Juries.—That jurors ought to be duly impannelled and returned (and jurors which pass upon men in trials for high treason ought to be freeholders. Rep., 6 Geo. 4, c 50, s 62).

Grants of forfeiture.—That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void.

Frequent Parliaments.—And that for redress of all grievances and for the amending, strengthening and preserving of the laws Parliament ought to be held frequently.

And they do claim, demand and insist upon all and singular the premises as their undoubted rights and liberties and that no declarations, judgments, doings or proceedings to the prejudice of the people in any of the said premises ought in any wise to be drawn hereafter into consequence or example. To which demand of their rights they are particularly encouraged by the declaration of His Highness the Prince of Orange as being the only means for obtaining a full redress and remedy therein. Having therefore an entire confidence that his said Highness, the Prince of Orange, will perfect the deliverance so far advanced by him and will still preserve them from the violation of their rights which they have here asserted and from all other attempts upon their religion, rights and liberties. The said lords spiritual and temporal and commons assembled at Westminster do resolve that William and Mary, Prince and Princess of Orange, be and be declared King and Queen of England, France, and Ireland and the dominions thereunto belonging to hold the crown and royal dignity of the said kingdoms and dominions to them, the said prince and princess, during their lives and the life of the survivor of them. And that the sole and full exercise of the regal power be onely in and executed by the said Prince of Orange in the names of the said prince and princess during their joint lives and after their deceases the said crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said princess and for default of such issue to the Princess Anne of Denmark and the heirs of her body and for default of such issue to the heirs of the body of the said Prince of Orange. And the lords spiritual and temporal and commons do pray the said prince and princess to accept the same accordingly. And that the oaths hereafter mentioned be taken by all persons of whom the oaths of allegiance and supremacy might be required by law instead of them and that the said oaths of allegiance and supremacy be abrogated.

I, A.B., do sincerely promise and swear that I will be faithful and bear true allegiance to their Majesties, King William and Queen Mary.
So help me God.

I, A.B., do swear that I do from my heart abhor, detest and abjure as impious and heretical this damnable doctrine and position that princes excommunicated or deprived by the Pope or any authority of the See of Rome may be deposed or murdered by their subjects or any other whatsoever.

THE ACT OF SETTLEMENT (1700)

(12 & 13 Will. 3, c. 2.)

An Act for the further Limitation of the Crown and better securing the Rights and Liberties of the Subject

The short title, "The Act of Settlement," was given to this Act by the Short Titles Act, 1896 (c. 14).

It is ultimately in pursuance of this Act that the now reigning sovereign occupies the throne.

Whereas in the first year of the reign of your Majesty and of our late most gracious sovereign lady Queen Mary (of blessed memory) an Act of Parliament was made intituled (an Act for declaring the rights and liberties of the subject and for settling the succession of the crown) wherein it was (amongst other things) enacted established and declared that the crown and regall government of the kingdoms of England France and Ireland and the dominions thereunto belonging should be and continue to your Majestie and the said late Queen during the joynt lives of your Majesty and the said Queen and to the survivor and that after the decease of your Majesty and of the said Queen the said crown and regall government should be and remain to the heirs of the body of the said late Queen and for default of such issue to her royall Highness the Princess Ann of Denmark and the heirs of her body and for default of such issue to the heirs of the body of your Majesty And it was thereby further enacted that all and every person and persons that then were or afterwards should be reconciled to or shall hold communion with the see or church of Rome or should professe the popish religion or marry a papist should be excluded and are by that Act made for ever [incapable ¹] to inherit possess or enjoy the crown and government of this realm and Ireland and the dominions thereunto belonging or any part of the same or to have use or exercise any regall power authority or jurisdiction within the same and in all and every such case and cases the people of these realms shall be and are thereby absolved of their allegiance and that the said crown and government shall from time to time descend to and be enjoyed by such person or persons being protestants as should have inherited and enjoyed the same in case the said person or persons so reconciled holding communion professing or marrying as aforesaid were naturally dead After the making of which Statute and the settlement therein contained your Majesties good subjects who were restored to the full and free possession and enjoyment of their [religion ²] rights and liberties by the providence of God giving success to your Majesties just undertakings and unwearied endeavours for that purpose had no greater temporall felicity to hope or wish for then to see a royall progeny descending from your Majesty to whom (under God) they owe their tranquility and whose ancestors have for many years been principall assertors of the reformed religion and the liberties of [Europe ²] and from our said most gracious sovereign lady whose memory will always be precious to the subjects of these realms And it having since pleased Almighty God to take away our said sovereign lady and also the most hopefull Prince William Duke of Gloucester (the only surviving issue of her

¹ Uncapable O.

² Interlined on the roll.

royall Highness the Princess Ann of Denmark) to the unspeakable grief and sorrow of your Majesty and your said good subjects who under such losses being sensibly put in mind that it standeth wholly in the pleasure of Almighty God to prolong the lives of your Majesty and of her royall Highness and to grant to your Majesty or to her royall Highness such issue as may be inheritable to the crown and regall government aforesaid by the respective limitations in the said recited Act contained doe constantly implore the divine mercy for those blessings And your Majesties said subjects having daily experience of your royall care and concern for the present and future welfare of these kingdoms and particularly recommending from your throne a further provision to be made for the succession of the crown in the protestant line for the happiness of the nation and the security of our religion and it being absolutely necessary for the safety peace and quiet of this [realm ¹] to obviate all doubts and contentions in the same by reason of any pretended titles to the [crown ¹] and to maintain a certainty in the succession thereof to which your subjects may safely have recourse for their protection in case the limitations in the said recited [Act ¹] should determine Therefore for a further provision of the succession of the crown in the protestant line we your Majesties most dutifull and loyal subjects the lords spirituall and temporall and commons in this present Parliament assembled do beseech your Majesty that it may be enacted and declared and be it enacted and declared by the Kings most excellent Majesty by and with the advice and consent of the lords spirituall and temporall and cōmons in this present Parliament assembled and by the authority of the same that

1. The Princess Sophia, Electress and Duchess dowager of Hanover, daughter of the late Queen of Bohemia, daughter of King James the First, to inherit after the King and the Princess Anne, in default of issue of the said princess and his Majesty, respectively; and the heirs of her body, being protestants.—The most excellent Princess Sophia Electress and Duchess dowager of Hanover daughter of the most excellent Princess Elizabeth late Queen of Bohemia daughter of our late sovereign lord King James the First of happy memory be and is hereby declared to be the next in succession in the protestant line to the imperiall crown and dignity of the [said ¹] realms of England France and Ireland with the dominions and territories thereunto belonging after his Majesty and the Princess Ann of Denmark and in default of issue of the said Princess Ann and of his Majesty respectively and that from and after the deceases of his said Majesty our now sovereign lord and of her royall Highness the Princess Ann of Denmark and for default of issue of the said Princess Ann and of his Majesty respectively the crown and regall government of the said kingdoms of England France and Ireland and of the dominions thereunto belonging with the royall state and dignity of the said realms and all honours stiles titles regalities prerogatives powers jurisdictions and authorities to the same belonging and appertaining shall be remain and continue to the said most excellent Princess Sophia and the heirs of her body being protestants And thereunto the said lords spirituall and temporall and commons shall and will in the name of all the people of this realm most humbly and faithfully submitt themselves their heirs and posterities and do faithfully promise that after the deceases of his

¹ Interlined on the roll.

Majesty and her royall Highness and the failure of the heirs of their respective bodies to stand to maintain and defend the said Princess Sophia and the heirs of her body being [protestants¹] according to the limitation and succession of the crown in this Act specified and contained to the utmost of their powers with their lives and estates against all persons whatsoever that shall attempt any thing to the contrary.

2. The persons inheritable by this Act, holding communion with the church of Rome, incapacitated as by the former Act, to take the oath at their coronation, according to Stat. 1, W. & M. c. 6.—Provided always and it is hereby enacted that all and every person and persons who shall or may take or inherit the said crown by vertue of the limitation of this present Act and is are or shall be reconciled to or shall hold communion with the see or church of Rome or shall profess the popish religion or shall marry a papist shall be subject to such incapacities as in such case or cases are by the said recited Act provided enacted and established. And that every King and Queen of this realm who shall come to and succeed in the imperiall crown of this kingdom by vertue of this Act shall have the coronation oath administered to him her or them at their respective coronations according to the Act of Parliament made in the first year of the reign of his Majesty and the said late Queen Mary intituled An Act for establishing the coronation oath and shall make subscribe and repeat the declaration in the Act first above recited mentioned or referred to in the manner and form thereby prescribed

[The form of declaration is now that prescribed by the Accession Declaration Act, 1910 (c.29).]

3. Further provisions for securing the religion, laws, and liberties of these realms.—And whereas it is requisite and necessary that some further provision be made for securing our religion laws and liberties from and after the death of his Majesty and the Princess Ann of Denmark and in default of issue of the body of the said princess and of his Majesty respectively Be it enacted by the Kings most excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in Parliament assembled and by the authority of the same

That whosoever shall hereafter come to the possession of this crown shall joyn in communion with the Church of England as by law established

That in case the crown and imperiall dignity of this realm shall hereafter come to any person not being a native of this kingdom of England this nation be not obliged to ingage in any warr for the defence of any dominions or territories which do not belong to the crown of England without the consent of Parliament

[That no person who shall hereafter come to the possession of this crown shall go out of the dominions of England Scotland or Ireland without consent of Parliament. [Rep. 1 Geo. 1, Stat. 2, c. 51.]]

[That from and after the time that the further limitation by this Act shall take effect all matters and things relating to the well governing of this kingdom which are properly cognizable in the privy councill by the laws and customs of this realme shall be transacted there and all resolutions taken thereupon shall be signed by such of the privy councill as shall advise and consent to the same. [Rep. 4 & 5 Anne, c. 20, s. 27.]]

¹ Interlined on the roll.

That after the said limitation shall take effect as aforesaid no person born out of the kingdoms of England Scotland or Ireland or the dominions thereunto belonging (although he be [*naturalized or*] made a denizen (except such as [are]¹ born of English parents) shall be capable to be of the privy councill or a member of either House of Parliament or to enjoy any office or place of trust either civill or military or to have any grant of lands tenements or hereditaments from the Crown to himself or to any other or others in trust for him

[*That no person who has an office or place of profit under the King or receives a pension from the Crown shall be capable of serving as a member of the House of Commons.* [Rep. 4 & 5 Anne, c. 20, s. 28.] . . .]

That no pardon under the great seal of England be pleadable to an impeachment by the commons in Parliament.

The words "naturalized or" were repealed by the British Nationality and Status of Aliens Act, 1914 (c. 17). Under s. 3 of that Act, Vol. 1, title ALIENS, p. 188, a person to whom a certificate of naturalisation has been granted has to all intents and purposes the status of a natural-born British subject.

4. The laws and statutes of the realm confirmed.—And whereas the laws of England are the birthright of the people thereof and all the kings and queens who shall ascend the throne of this realm ought to administer the government of the same according to the said laws and all their officers and ministers ought to serve them respectively according to the same. The said lords spirituall and temporall and commons do therefore further humbly pray that all the laws and statutes of this realm for securing the established religion and the rights and liberties of the people thereof and all other laws and statutes of the same now in force may be ratified and confirmed. And the same are by his Majesty by and with the advice and consent of the said lords spirituall and temporall and commons and by authority of the same ratified and confirmed accordingly.

THE UNION WITH SCOTLAND ACT, 1706

(6 Anne, c. 11.)²

An Act for an Union of the Two Kingdoms of England and Scotland.

The short title was given to this Act by the Short Titles Act, 1896 (c. 14).

Most Gracious Sovereign

Whereas articles of union were agreed on the twenty-second day of July in the fifth year of your Majesties reign by the commissioners nominated on behalf of the kingdom of England under your Majesties great seal of England bearing date at Westminster the tenth day of April then last past in pursuance of an Act of Parliament made in England in the third year of your Majesties reign and the commissioners nominated on the behalf of the kingdom of Scotland under your Majesties great seal of Scotland bearing date the twenty-seventh day of February in the fourth year of your Majesties reign in pursuance of the fourth Act

¹ Interlined on the roll.

² This is chap. VIII. 5 & 6 Ann. in the common printed editions.

of the third session of the present Parliament of Scotland to treat of and concerning an union of the said kingdoms And whereas an Act hath passed in the Parliament of Scotland at Edinburgh the sixteenth day of January in the fifth year of your Majesties reign wherein 'tis mentioned that the estates of Parliament considering the said articles of union of the two kingdoms had agreed to and approved of the said articles of union with some additions and explanations and that your Majesty with advice and consent of the estates of Parliament for establishing the Protestant religion and Presbyterian Church government within the kingdom of Scotland had passed in the same session of Parliament an Act intituled Act for securing of the Protestant religion and Presbyterian Church government which by the tenor thereof was appointed to be inserted in any Act ratifying the treaty and expresly declared to be a fundamental and essential condition of the said treaty or union in all times coming the tenor of which articles as ratified and approved of with additions and explanations by the said Act of Parliament of Scotland follows

Article I

The kingdoms united; ensigns armorial.—That the two kingdoms of England and Scotland shall upon the first day of May which shall be in the year one thousand seven hundred and [seven¹] and for ever after be united into one kingdom by the name of Great Britain and that the ensigns armorial of the said United Kingdom be such as her Majesty shall appoint and the crosses of S^t. George and S^t. Andrew be conjoyned in such manner as Her Majesty shall think fit and used in all flags banners standards and ensigns both at sea and land.

Article II

Succession to the monarchy.—That the succession to the monarchy of the United Kingdom of Great Britain and of the dominions thereto belonging after her most sacred Majesty and in default of issue of her Majesty be remain and continue to the most excellent Princess Sophia Electoress and Dutchess dowager of Hanover and the heirs of her body being protestants upon whom the crown of England is settled by an Act of Parliament made in England in the twelfth year of the reign of his late Majesty King William the Third intituled An Act for the further limitation of the crown and better securing the right and liberties of the subject And that all papists and persons marrying papists shall be excluded from and for ever incapable to inherit possess or enjoy the imperial crown of Great Britain and the dominions thereunto belonging or any part thereof and in every such case the crown and government shall from time to time descend to and be enjoyed by such person being a protestant as should have inherited and enjoyed the same in case such papist or person marrying a papist was naturally dead according to the provision for the descent of the crown of England made by another Act of Parliament in England in the first year of the reign of their late Majesties King William and Queen Mary intituled An Act declaring the rights and liberties of the subject and settling the succession of the crown.

¹ Seven O.

Article III

Parliament.—That the United Kingdom of Great Britain be represented by one and the same Parliament to be stiled the Parliament of Great Britain.

Article IIII

Trade and navigation and other rights.—That all the subjects of the United Kingdom of Great Britain shall from and after the union have full freedom and intercourse of trade and navigation to and from any port or place within the said United Kingdom and the dominions and plantations thereunto belonging and that there be a communication of all other rights privileges and advantages which do or may belong to the subjects of either kingdom except where it is otherwise expressly agreed in these articles.

[S. 4, so far as it ratifies Art. V., is repealed by 30 & 31 Vict. c. 59.
(S.L.R.)]

Article VI

Regulations of trade, duties, etc.—That all parts of the United Kingdom for ever from and after the union shall have the same allowances encouragements and drawbacks and be under the same prohibitions restrictions and regulations of trade and liable to the same customs and duties on import and export and that the allowances encouragements and drawbacks prohibitions restrictions and regulations of trade and the customs and duties on import and export settled in England when the union commences shall from and after the union take place throughout the whole United Kingdom excepting and reserving the duties upon export and import of such particular commodities from which any persons the subjects of either kingdom are specially liberated and exempted by their private rights which after the union are to remain safe and entire to them in all respects as before the same And that from and after the union no Scots cattle carried into England shall be liable to any other duties either on the publick or private accompts than those duties to which the cattle of England are or shall be liable within the said kingdom . . .

Article VII

Excise.—That all parts of the United Kingdom be for ever from and after the union liable to the same excises upon all exciseable liquors excepting only that the thirty-four gallons English barrel of beer or ale amounting to twelve gallons Scots present measure sold in Scotland by the brewer at nine shillings six pence sterling excluding all duties and retailed including duties and the retailers profit at two pence the Scots pint or eighth part of the Scots gallon be not after the union liable on account of the present excise upon exciseable liquors in England to any higher imposition than two shillings sterling upon the aforesaid thirty-four gallons English barrel being twelve gallons the present Scots measure and that the excise settled in England on all other liquors when the union commences take place throughout the whole United Kingdom.

[S. 4, so far as it ratifies Art. VIII, is repealed by 30 & 31 Vict. c. 59.
(S.L.R.)]

Article IX

Land tax.—That whensoever the sum of one million nine hundred ninety-seven thousand seven hundred and sixty-three pounds eight shillings and four pence half penny shall be enacted by the Parliament of Great Britain to be raised in that part of the United Kingdom now called England on land and other things usually charged in Acts of Parliament there for granting an aid to the crown by a land tax that part of the United Kingdom now called Scotland shall be charged by the same Act with a further sum of forty-eight thousand pounds free of all charges as the quota of Scotland to such tax and so proportionably for any greater or lesser sum raised in England by any tax on land and other things usually charged together with the land and that such quota for Scotland in the cases aforesaid be raised and collected in the same manner as the cess now is in Scotland but subject to such regulations in the manner of collecting as shall be made by the Parliament of Great Britain.

[S. 4, so far as it ratifies Arts. X.–XV., is repealed by 30 & 31 Vict. c. 59. (S.L.R.)]

Article XVI

Coin.—That from and after the union the coin shall be of the same standard and value throughout the United Kingdom as now in England . . .

[Art. XVII. rep. 41 & 42 Vict. c. 49, s. 86. (*Weights and Measures.*)]

Article XVIII

Laws concerning public rights; private rights.—That the laws concerning regulation of trade customs and such excises to which Scotland is by virtue of this treaty to be liable be the same in Scotland from and after the union as in England and that all other laws in use within the kingdom of Scotland do after the union and notwithstanding thereof remain in the same force as before (except such as are contrary to or inconsistent with this treaty) but alterable by the Parliament of Great Britain with this difference betwixt the laws concerning publick right policy and civil government and those which concern private right [that the laws which concern publick right¹] policy and civil government may be made the same throughout the whole United Kingdom But that no alteration be made in laws which concern private right except for evident utility of the subjects within Scotland.

Article XIX

Scottish Courts.—That the Court of Session or colledge of justice do after the union and notwithstanding thereof remain in all time coming within Scotland as it is now constituted by the laws of that kingdom and with the same authority and privileges as before the union subject nevertheless to such regulations for the better administration of justice as shall be made by the Parliament of Great Britain and that hereafter none shall be named by Her Majesty or her royal successors to be ordinary lords of

¹ Interlined on the roll.

session but such who have served in the collidge of justice as advocates or principal clerks of session for the space of five years or as writers to the signet for the space of ten years with this provision that no writer to the signet be capable to be admitted a lord of the session unless he undergo a private and publick tryal on the civil law before the faculty of advocates and be found by them qualified for the said office two years before he be named to be a lord of the session yet so as the qualifications made or to be made for capacitating persons to be named ordinary lords of session may be altered by the Parliament of Great Britain And that the Court of Justiciary do also after the union and notwithstanding thereof remain in all time coming within Scotland as it is now constituted by the laws of that kingdom and with the same authority and privileges as before the union subject nevertheless to such regulations as shall be made by the Parliament of Great Britain and without prejudice of other rights of justiciary And that all admiralty jurisdictions be under the lord high admiral or commissioners for the admiralty of Great Britain for the time being and that the Court of Admiralty now established in Scotland be continued and that all reviews reductions or suspensions of the sentences in maritime cases competent to the jurisdiction of that court remain in the same manner after the union as now in Scotland until the Parliament of Great Britain shall make such regulations and alterations as shall be judged expedient for the whole United Kingdom so as there be always continued in Scotland a Court of Admiralty such as in England for determination of all maritime cases relating to private rights in Scotland competent to the jurisdiction of the Admiralty Court subject nevertheless to such regulations and alterations as shall be thought proper to be made by the Parliament of Great Britain And that the heretable rights of admiralty and vice admiralties in Scotland be reserved to the respective proprietors as rights of property subject nevertheless as to the manner of exercising such heretable rights to such regulations and alterations as shall be thought proper to be made by the Parliament of Great Britain And that all other courts now being within the kingdom of Scotland do remain but subject to alterations by the Parliament of Great Britain and that all inferior courts within the said limits do remain subordinate as they are now to the supreme courts of justice within the same in all time coming And that no causes in Scotland be cognoscible by the courts of Chancery Queen's Bench Common Pleas or any other court in Westminster Hall and that the said courts or any other of the like nature after the union shall have no power to cognosce review or alter the acts or sentences of the judicatures within Scotland or stop the execution of the same And that there be a Court of Exchequer in Scotland after the union for deciding questions concerning the revenues of customs and excises there having the same power and authority in such cases as the Court of Exchequer has in England and that the said Court of Exchequer in Scotland have power of passing signatures gifts tutories and in other things as the Court of Exchequer at present in Scotland hath and that the Court of Exchequer that now is in Scotland do remain until a new Court of Exchequer be settled by the Parliament of Great Britain in Scotland after the union . . .

Article XX

Heritable offices, etc.—That all heretable offices superiorities heretable jurisdictions offices for life and jurisdictions for life be reserved

to the owners thereof as rights of property in the same manner as they are now enjoyed by the laws of Scotland notwithstanding this treaty.

Article XXI

Royal burghs.—That the rights and privileges of the royal burghs in Scotland as they now are do remain entire after the union and notwithstanding thereof.

Article XXII

Sixteen peers of Scotland.—That by virtue of this treaty of the peers of Scotland at the time of the union sixteen shall be the number to sit and vote in the House of Lords and forty-five the number of the representatives of Scotland in the House of Commons of the Parliament of Great Britain. . . .

Article XXIII

Privileges of the sixteen Peers of Scotland.—That the aforesaid sixteen peers of Scotland mentioned in the last preceding article to sit in the House of Lords of the Parliament of Great Britain shall have all privileges of Parliament which the peers of England now have and which they or any peers of Great Britain shall have after the union and particularly the right of sitting upon the trials of peers And in the case of the trial of any peer in time of adjournment or prorogation of Parliament the said sixteen peers shall be summoned in the same manner and have the same powers and privileges at such trial as any other peers of Great Britain and that in case any tryals of peers shall hereafter happen when there is no Parliament in being the sixteen peers of Scotland who sat at the last preceding Parliament shall be summoned in the same manner and have the same powers and privileges at such tryals as any other peers of Great Britain And that all peers of Scotland and their successors to their honours and dignities shall from and after the union be peers of Great Britain and have rank and precedence next and immediately after the peers of the like orders and degrees in England at the time of the union and before all peers of Great Britain of the like orders and decrees who may be created after the union and shall be tryed as peers of Great Britain and shall enjoy all privileges of peers as fully as the peers of England do now or as they or any other peers of Great Britain may hereafter enjoy the same except the right and privilege of sitting in the House of Lords and the privileges depending thereon and particularly the right of sitting upon the tryals of peers.

Article XXIV

Heraldry; great seal; privy seal; regalia.—That from and after the union there be one great seal for the United Kingdom of Great Britain which shall be different from the great seal now used in either Kingdom And that the quartering the arms and the rank and precedence of the Lyon king of arms of the kingdom of Scotland as may best suit the union be left to her Majesty And that in the mean time the great seal of England be used as the great seal of the United Kingdom and that the great seal of the United Kingdom be used for sealing writts to elect and summon the Parliament of Great Britain and for sealing all treaties with foreign princes and states and all publick acts instruments and orders of state which concern the whole United Kingdom and in all other matters

seal in Scotland after the union be always kept and made use of in all things relating to private rights or grants which have usually passed the great seal of Scotland and which only concern offices grants commissions and private rights within that kingdom and that until such seal shall be appointed by her Majesty the present great seal of Scotland shall be used for such purposes and that the privy seal signet casset signet of the Justiciary Court quarter seal and seals of courts now used in Scotland be continued but that the said seals be altered and adapted to the state of the union as her Majesty shall think fit and the said seals and all of them and the keepers of them shall be subject to such regulations as the Parliament of Great Britain shall hereafter make And that the crown scepter and sword of state the records of Parliament and all other records rolls and registers whatsoever both publick and private general and particular and warrants thereof continue to be kept as they are within that part of the United Kingdom now called Scotland and that they shall so remain in all time coming [notwithstanding ¹] the union.

Article XXV

Laws inconsistent with the articles, void.—That all laws and statutes in either kingdom so far as they are contrary to or inconsistent with the terms of these articles or any of them shall from and after the union cease and become void and shall be so declared to be by the respective Parliaments of the said kingdoms.

As by the said articles of union ratified and approved by the said Act of Parliament of Scotland relation [being thereunto ²] had may appear.

2. Acts of Scotland herein mentioned, confirmed.—And the tenor of the aforesaid Act for securing the Protestant religion and Presbyterian Church government within the kingdom of Scotland is as follows.

Our sovereign lady and the estates of Parliament considering that by the late Act of Parliament for a treaty with England for an union of both kingdoms it is provided that the commissioners for that treaty should not treat of or concerning any alteration of the worship discipline and government of the Church of this kingdom as now by law established which treaty being now reported to the Parliament and it being reasonable and necessary that the true Protestant religion as presently professed within this kingdom with the worship discipline and government of this Church should be effectually and unalterably secured therefore her Majesty with advice and consent of the said estates of Parliament doth hereby establish and confirm the said true Protestant religion and the worship discipline and government of this Church to continue without any alteration to the people of this land in all succeeding generations and more especially her Majesty with advice and consent aforesaid ratifies approves and for ever confirms the fifth Act of the first Parliament of King William and Queen Mary intituled Act ratifying the confession of faith and settling Presbyterian Church government with all other Acts of Parliament relating thereto in prosecution of the declaration of the estates of this kingdom containing the claim of right bearing date the eleventh of April one thousand six hundred and eighty-nine And her Majesty with advice and consent aforesaid expressly provides and declares that the foressaid true Protestant religion contained in the above mentioned confession of faith with the form and purity of worship presently

¹ Notwithstanding *O*

² Thereunto being *O*.

in use within this Church and its Presbyterian Church government and discipline (that is to say) the government of the Church by kirk sessions presbyteries provincial synods and general assemblies all established by the foresaid Acts of Parliament pursuant to the claim of right shall remain and continue unalterable and that the said Presbyterian government shall be the only government of the Church within the kingdom of Scotland.

Universities and colleges of Saint Andrew, Glasgow, Aberdeen and Edinburgh, to continue.—And further for the greater security of the foresaid Protestant religion and of the worship discipline and government of this Church as above established her Majesty with advice and consent foresaid statutes and ordains that the universities and colleges of Saint Andrew's Glasgow Aberdeen and Edinburgh as now established by law shall continue within this kingdom for ever and that in all time coming no professors principals regents masters or others bearing office in any university college or school within this kingdom be capable or be admitted or allowed to continue in the exercise of their said functions but such as shall own and acknowledge the civil government in manner prescribed or to be prescribed by the Acts of Parliament as also that before or at their admissions they do and shall acknowledge and profess and shall subscribe to the foresaid confession of faith as the confession of their faith and that they will practise and conform themselves to the worship presently in use in this Church and submit themselves to the government and discipline thereof and never endeavour directly or indirectly the prejudice or subversion of the same and that before the respective presbyteries of their bounds by whatsoever gift presentation or provisions they may be thereto provided.

Subjects not liable to oath, test, or subscription, inconsistent with the Presbyterian Church government; successor to swear to maintain the said settlement of religion.—And further her Majesty with advice aforesaid expressly declares and statutes that none of the subjects of this kingdom shall be liable to put all and every one of them for ever free of any oath test or subscription within this kingdom contrary to or inconsistent with the foresaid true Protestant religion and Presbyterian Church government worship and discipline as above established and that the same within the bounds of this Church and kingdom shall never be imposed upon or required of them in any sort And lastly that after the decease of her present Majesty (whom God long preserve) the sovereign succeeding to her in the royal government of the kingdom of Great Britain shall in all time coming at his or her accession to the crown swear and subscribe that they shall inviolably maintain and preserve the foresaid settlement of the true Protestant religion with the government worship discipline right and privileges of this Church as above established by the laws of this kingdom in prosecution of the claim of right.

This Act to be held a fundamental condition of union, and to be inserted in any Act of Parliament for concluding the said union.—And it is hereby statute and ordained that this Act of Parliament with the establishment therein contained shall be held and observed in all time coming as a fundamental and essential condition of any treaty or union to be concluded betwixt the two kingdoms without any alteration thereof or derogation thereto in any sort for ever As also that this Act of Parliament and settlement therein contained shall be insert and repeated in any Act of Parliament that shall pass for agreeing and concluding the foresaid treaty or union betwixt the two kingdoms and that the same

shall be therein expressly declared to be a fundamental and essential condition of the said treaty or union in all time coming which articles of union and Act immediately above written her Majesty with advice and consent aforesaid statutes enacts and ordains to be and continue in all time coming the sure and perpetual foundation of a compleat and entire union of the two kingdoms of Scotland and England under the express condition and provision that this approbation and ratification of the foresaid articles and Act shall be no ways binding on this kingdom until the said articles and Act be ratified approved and confirmed by her Majesty with and by the authority of the Parliament of England as they are now agreed to approved and confirmed by her Majesty with and by the authority of the Parliament of Scotland declaring nevertheless that the Parliament of England may provide for the security of the Church of England as they think expedient to take place within the bounds of the said kingdom of England and not derogating from the security above provided for establishing of the Church of Scotland within the bounds of this kingdom as also the said Parliament of England may extend the additions and other provisions contained in the articles of union as above insert in favours of the subjects of Scotland to and in favour of the subjects of England which shall not suspend or derogate from the force and effect of this present ratification but shall be understood as herein included without the necessity of any new ratification in the Parliament of Scotland.

Laws contrary to articles, void.—And lastly her Majesty enacts and declares that all laws and statutes in this kingdom so far they are contrary to or inconsistent with the terms of these articles as above mentioned shall from and after the union cease and become void.

3. Recital of 6 Ann. c. 8.—And whereas an Act hath passed in this present session of Parliament intituled An Act for securing the Church of England as by law established the tenor whereof follows

Whereas by an Act made in the session of Parliament held in the third and fourth year of her Majesties reign whereby her Majesty was empowered to appoint commissioners [under the great seal of England to treat with commissioners¹] to be authorized by the Parliament of Scotland concerning an union of the kingdoms of England and Scotland it is provided and enacted that the commissioners to be named in pursuance of the said Act should not treat of or concerning any alteration of the liturgy rites ceremonies discipline or government of the Church as by law established within this realm And whereas certain commissioners appointed by her Majesty in pursuance of the said Act and also other commissioners nominated by her Majesty by the authority of the Parliament of Scotland have met and agreed upon a treaty of union of the said kingdoms which treaty is now under the consideration of this present Parliament And whereas the said treaty (with some alterations therein made) is ratified and approved by Act of Parliament in Scotland and the said act of ratification is by her Majesties royal command laid before the Parliament of this kingdom And whereas it is reasonable and necessary that the true Protestant religion professed and established by law in the Church of England and the doctrine worship discipline and government thereof should be effectually and unalterably secured Be it enacted by the Queens most excellent Majesty by

¹ Interlined on the roll.

and with the advice and consent of the lords spiritual and temporal and the commons in this present Parliament assembled and by authority of the same that an Act made in the thirteenth year of the reign of Queen Elizabeth of famous memory intituled An Act for the ministers of the Church to be of sound religion and also another Act made in the thirteenth year of the reign of the late King Charles the Second intituled An Act for the uniformity of the publick prayers and administration of sacraments and other rites and ceremonies and for establishing the form of making ordaining and consecrating bishops priests and deacons in the Church of England (other than such clauses in the said Acts or either of them as have been repealed or altered by any subsequent Act or Acts of Parliament) and all and singular other Acts of Parliament now in force for the establishment and preservation of the Church of England and the doctrine worship discipline and government thereof shall remain and be in full force for ever

And be it further enacted by the authority aforesaid that after the demise of her Majesty (whom God long preserve) the Sovereign next succeeding to her Majesty in the royal government of the kingdom of Great Britain and so for ever hereafter every King or Queen succeeding and coming to the royal government of the kingdom of Great Britain at his or her coronation shall in the presence of all persons who shall be attending assisting or otherwise then and there present take and subscribe an oath to maintain and preserve inviolably the said settlement of the Church of England and the doctrine worship discipline and government thereof as by law established within the kingdoms of England and Ireland the dominion of Wales and town of Berwick upon Tweed and the territories thereunto belonging.

And be it further enacted by the authority aforesaid that this Act and all and every the matters and things therein contained be and shall for ever be holden and adjudged to be a fundamental and essential part of any treaty of union to be concluded between the said two kingdoms and also that this Act shall be inserted in express terms in any Act of Parliament which shall be made for settling and ratifying any such treaty of union and shall be therein declared to be an essential and fundamental part thereof.

4. The said articles and Act of Parliament of Scotland confirmed.—
[¹] May it therefore please your most excellent Majesty that it may be enacted and be it enacted by the Queen's most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled and by authority of the same that all and every the said articles of union as ratified and approved by the said Act of Parliament of Scotland as aforesaid and herein before particularly mentioned and inserted and also the said Act of Parliament of Scotland for establishing the Protestant religion and Presbyterian Church government within that kingdom intituled Act for securing the Protestant religion and Presbyterian Church government and every clause matter and thing in the said articles and Act contained shall be and the said articles and Act are hereby for ever ratified approved and confirmed.

[¹ Rep. or virt. rep., so far as it ratifies, approves, and confirms the articles and parts of articles omitted, 30 & 31 Vict. c. 59 (S.L.R.), 31 & 32 Vict. 2. 72, and 34 & 35 Vict. c. 48.]

5. Cap. 8, ante, and the said Act of Parliament of Scotland to be observed as fundamental conditions of the said union; and the said articles and Acts of Parliament to continue the union.—And it is hereby further enacted by the authority aforesaid that the said Act passed in this present session of Parliament intituled *An Act for securing the Church of England as by law established* and all and every the matters and things therein contained and also the said Act of Parliament of Scotland intituled *Act for securing the Protestant religion and Presbyterian Church government with the establishment in the said Act contained* be and shall for ever be held and adjudged to be and observed as fundamental and essential conditions of the said union and shall in all times coming be taken to be and are hereby declared to be essential and fundamental parts of the said articles and union and the said articles of union so as aforesaid ratified approved and confirmed by Act of Parliament of Scotland and by this present Act and the said Act passed in this present session of Parliament intituled *an Act for securing the Church of England as by law established* and also the said Act passed in the Parliament of Scotland intituled *Act for securing the Protestant religion and Presbyterian Church government* are hereby enacted and ordained to be and continue in all times coming the complete and intire union of the two kingdoms of England and Scotland.

6. Recital of Act of Parliament of Scotland for settling election of the sixteen peers and forty-five members for Scotland.—And whereas since the passing the said Act in the Parliament of Scotland for ratifying the said articles of union one other Act intituled *Act settling the manner of electing the sixteen peers and forty-five members to represent Scotland in the Parliament of Great Britain* hath likewise passed in the said Parliament of Scotland at Edinburgh the fifth day of February one thousand seven hundred and seven the tenor whereof follows

Our sovereign lady considering that by the twenty-second article of the treaty of union as the same is ratified by an Act passed in this session of Parliament upon the sixteenth of January last it is provided that by virtue of the said treaty of the peers of Scotland at the time of the union sixteen shall be the number to sit and vote in the House of Lords and forty-five the number of the representatives of Scotland in the House of Commons of the Parliament of Great Britain and that the said sixteen peers and forty-five members in the House of Commons be named and chosen in such manner as by a subsequent Act in this present session of Parliament in Scotland should be settled which Act is thereby declared to be as valid as if it were a part of and ingrossed in the said treaty Therefore her Majesty with advice and consent of the estates of Parliament statutes enacts and ordains that the said sixteen peers who shall have right to sit in the House of Peers in the Parliament of Great Britain on the part of Scotland by virtue of this treaty shall be named by the said peers of Scotland whom they represent their heires or successors to their dignities and honours out of their own number and that by open election and plurality of voices of the peers present and of the proxies for such as shall be absent the said proxies being peers and producing a mandate in writing duly signed before witnesses and both the constituent and proxy being qualified according to law declaring also that such peers as are absent being qualified as aforesaid may send to all such meetings lists of the peers whom they judge fittest validly signed by the said absent

peers which shall be reckoned in the same manner as if the parties had been present and given in the said list and in case of the death or legal incapacity of any of the said sixteen peers that the aforesaid peers of Scotland shall nominate another of their own number in place of the said peer or peers in manner before and after mentioned And that of the said forty-five representatives of Scotland in the House of Commons in the Parliament of Great Britain thirty shall be chosen by the shires or steuartries and fifteen by the royal burrows as follows viz. one for every shire and steuarity excepting the shires of Bute and Cathness which shall choose one by turns Bute having the first election the shires of Nairn and Cromarty which shall also choose by turns Nairn having the first election and in like manner the shires of Clackmanan and Kinross shall choose by turns Clackmanan having the first election and in case of the death or legal incapacity of any of the said members from the respective shires or steuaries above mentioned to sit in the House of Commons it is enacted and ordained that the shire or steuarity who elected the said member shall elect another member in his place and that the said fifteen representatives for the royal burrows be chosen as follows viz. that the town of Edinburgh shall have right to elect and send one member to the Parliament of Great Britain and that each of the other burghs shall elect a commissioner in the same manner as they are now in use to elect commissioners to the Parliament of Scotland which commissioners and burghs (Edinburgh excepted) being divided into fourteen classes or districts shall meet at such time and burghs within their respective districts as her Majesty her heires or successors shall appoint and elect one for each district viz. the burghs of Kirkwall Week Dornock Dingwall and Taine one the burghs of Fortrose Inverness Nairn and Forress one of the burghs of Elgin Cullen Banff Inverury and Kintore one the burghs of Aberdeen Inverbervy Montrose Aberbrothock and Brochine one the burghs of Forfar Perth Dundee Coupar and Saint Andrews one the burghs of Crail Kilrennie Anstruther Easter Anstruther Wester and Pittenweem one the burghs of Dysart Kirkaldie Kinghern and Bruntisland one the burghs of Innerkithen Dunfermline Queensferry Culross and Sterling one the burghs of Glasgow Renfrew Ruglen and Dumbarton one the burghs of Haddington Dunbarr North Berwick Lauder and Jedburgh one the burghs of Selkirk Peebles Linlithgow and Lanerk one the burghs of Dumfries Sanquhar Annan Lockmaben and Kirkcudbright one the burghs of Wigtoun New Galloway Stranraer and Whitehern one and the burghs of Air Irvin Rothesay Campbeltoun and Inverary one And it is hereby declared and ordained that where the votes of the commissioners for the said burghs met to choose representatives from their several districts to the Parliament of Great Britain shall be equal in that case the president of the meeting shall have a casting or decisive vote and that by and according to his vote as a commissioner from the burgh from which he is sent the commissioner from the eldest burgh presiding in the first meeting and the commissioners from the other burghs in their respective districts presiding afterwards by turns in the order as the said burghs are now called in the rolls of the Parliament of Scotland And that in case any of the said fifteen commissioners from burghs shall decease or become legally incapable to sit in the House of Commons then the town of Edinburgh or the district which chose the said member shall elect a member in his or their place It is always hereby expressly provided and declared that none shall be capable to elect or be elected for any of the

said estates but such as are twenty-one years of age complete and protestant excluding all papists or such who being suspect of popery and required refuse to swear and subscribe the formula contained in the third Act made in the eighth and ninth sessions of King Williams Parliament intituled Act for preventing the growth of popery And also declaring that none shall be capable to elect or be elected to represent a shire or burgh in the Parliament of great Britain for this part of the United Kingdom except such as are now capable by the laws of this kingdom to elect or be elected as commissioners for shires or burghs to the Parliament of Scotland And further her Majesty with advice and consent aforesaid for the effectual and orderly election of the persons to be chosen to sit vote and serve in the respective Houses of the Parliament of Great Britain when her Majesty her heires and successors shall declare her or their pleasure for holding the first or any subsequent Parliament of Great Britain and when for that effect a writ shall be issued out under the great seal of the United Kingdom directed to the privy council of Scotland conform to the said twenty-second article [statutes ¹] enacts and ordains that until the Parliament of Great Britain shall make further provision therein the said writ shall contain a warrant and command to the said privy council to issue out a proclamation in her Majesties name requiring the peers of Scotland for the time to meet and assemble at such time and place within Scotland as her Majesty and royal successors shall think fit to make election of the said sixteen peers and requiring the lord clerk register or two of the clerks of session to attend all such meetings and to administer the oaths that are or shall be by law required and to ask the votes and having made up the lists in [the ²] presence of the meeting to return the names of the sixteen peers chosen (certified under the subscription of the said lord clerk register clerk or clerks of session attending) to the clerk of the privy council of Scotland and in like manner requiring and ordaining the several freeholders in the respective shires and steuartries to meet and convene at the head burghs of their several shires and steuartries to elect their commissioners conform to the order above set down and ordaining the clerks of the said meetings immediately after the said elections are over respectively to return the names of the persons elected to the clerks of the privy council and lastly ordaining the city of Edinburgh to elect their commissioner and the other royal burrows to elect each of them a commissioner as they have been [in ³] use to elect commissioners to the Parliament and to send the said respective commissioners at such times to such burghs within their respective districts as her Majesty and successors by such proclamations shall appoint requiring and ordaining the common clerk of the respective burghs where such election shall be appointed to be made to attend the said meetings and immediately after the election to return the name of the person so elected (certified under his hand) to the clerk of privy council to the end that the names of the sixteen peers thirty commissioners for shires and fifteen commissioners for burghs being so returned to the privy council may be returned to the court from whence the writ did issue under the great seal of the United Kingdom conform to the said twenty-second article. And whereas by the said twenty-second article it is agreed that if her Majesty shall on or before the first day of May next declare that it is expedient the lords and commons of the present Parliament of England should be the mem-

¹ Interlined on the roll.² O. omits.³ Interlined on the roll.

bers of the respective Houses of the first Parliament of Great Britain for and on the part of England they shall accordingly be the members of the said respective Houses for and on the part of England Her Majesty with advice and consent aforesaid in that case only doth hereby statute and ordain that the sixteen peers and forty-five commissioners for shires and burghs who shall be chosen by the peers barons and burghs respectively in this present session of Parliament and out of the members thereof in the same manner as committees of Parliament are usually now chosen shall be the members of the respective Houses of the said first Parliament of Great Britain for and on the part of Scotland which nomination and election being certified by a writ under the lord clerk register's hand the person so nominated and elected shall have right to sit and vote in the House of Lords and in the House of Commons of the said first Parliament of Great Britain.

7. The said Act declared valid, as if it had been part of the said articles of union.—As by the said Act passed in Scotland for settling the manner of electing the sixteen peers and forty-five members to represent Scotland in the Parliament of Great Britain may appear. Be it therefore further enacted and declared by the authority aforesaid that the said last mentioned Act passed in Scotland for settling the manner of electing the sixteen peers and forty-five members to represent Scotland in the Parliament of Great Britain as aforesaid shall be and the same is hereby declared to be as valid as if the same had been part of and engrossed in the said articles of union ratified and approved by the said Act of Parliament of Scotland and by this Act as aforesaid.

THE UNION WITH SCOTLAND (AMENDMENT) ACT, 1707¹

(6 Anne, c. 40.)²

An Act for rendring the Union of the Two Kingdoms more intire and complete.

The short title was given to this Act by the Short Titles Act, 1896 (c. 14).

Whereas by her Majesties great wisdom and goodness the union of the two kingdoms hath been happily effected and the whole island is thereby subject to one sovereignty and represented by one Parliament To the end therefore that the said union may be rendred more complete and intire be it enacted by the Queens most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled and by the authority of the same that.

[1.] One privy council for Great Britain.—From and after the first day of May in the year of our Lord one thousand seven hundred and eight the Queen's Majesty her heirs and successors shall have but one privy council in or for the kingdom of Great Britain to be sworn to her Majesty her heirs and successors as Sovereigns of Great Britain and such

¹ In this year was the first Parliament of Great Britain.

² This is chapter VI. 6 Ann. in the common printed editions.

privy council shall have the same powers and authorities as the privy council of England lawfully had used and exercised at the time of the union and none other.

2. Appointment of justices of peace for Scotland.—And to the end the publick peace may be in like manner preserved throughout the whole kingdom be it further enacted by the authority aforesaid that in every shire and stewartry within that part of Great Britain called Scotland and also in such cities boroughs liberties and precincts within Scotland as her Majesty her heirs or successors shall think fit there shall be appointed by her Majesty her heirs or successors under the great seal of Great Britain a sufficient number of good and lawful men to be justices of the peace within their respective shires stewartries cities boroughs liberties or precincts which persons so appointed over and above the several powers and authorities vested in justices of the peace by the laws of Scotland shall be further authorized to do use and exercise over all persons within their several bounds whatever doth appertain to the office and trust of a justice of peace by virtue of the laws and Acts of Parliament made in England before the union in relation to or for the preservation of the publick peace. Provided nevertheless that in the sessions of [the ¹] peace the methods of tryal and judgment shall be according to the laws and customs of Scotland.

3. Proviso for Edinburgh, and other royal burghs.—Provided that nothing in this Act contained shall be construed to alter or infringe any rights liberties or privileges heretofore granted to the city of Edinburgh or to any other royal borough of being justices of peace within their respective bounds.

[S. 4 rep. with savings 15 & 16 Geo. 5, c. 81, s. 4, Sched.]

5. Election of representatives of Scotland in the House of Commons.—And for the more uniform and express method of electing and returning members of Parliament be it likewise further enacted by the authority aforesaid that when any Parliament shall at any time hereafter be summoned or called the forty-five representatives of Scotland in the House of Commons of the Parliament of Great Britain shall be elected and chosen by authority of the Queens writts under the great seal of Great Britain directed to the several sheriffs and stewarts [of the respective shires and stewartries. . . .¹]

[S. 6 rep. 30 & 31 Vict. c. 59. (S.L.R.)]

THE UNION WITH IRELAND ACT (39 & 40 Geo. 3, c. 67.)

An Act for the Union of Great Britain and Ireland.
[2nd July, 1800.]

The short title was given to this Act by the Short Titles Act, 1896 (c. 14).
See also the Government of Ireland Act, 1920 (c. 67), and the Irish Free State (Agreement) Act, 1922 (c. 4).

Whereas in pursuance of his Majesty's most gracious recommendation to the two houses of Parliament in Great Britain and Ireland respectively,

¹ Interlined on the roll.

to consider of such measures as might best tend to strengthen and consolidate the connection between the two kingdoms, the two houses of the Parliament of Great Britain and the two houses of the Parliament of Ireland have severally agreed and resolved, that, in order to promote and secure the essential interests of Great Britain and Ireland, and to consolidate the strength, power and resources of the British empire, it will be advisable to concur in such measures as may best tend to unite the two kingdoms of Great Britain and Ireland into one kingdom, in such manner, and on such terms and conditions, as may be established by the Acts of the respective Parliaments of Great Britain and Ireland:

And whereas, in furtherance of the said resolution, both houses of the said two Parliaments respectively have likewise agreed upon certain articles for effectuating and establishing the said purposes, in the tenor following:

Article First

Great Britain and Ireland united into one kingdom.—That it be the First Article of the Union of the kingdoms of Great Britain and Ireland, that the said kingdoms of Great Britain and Ireland shall, upon the first day of January which shall be in the year of our Lord one thousand eight hundred and one, and for ever after, be united into one kingdom, by the name of the United Kingdom of Great Britain and Ireland, and that the royal stile and titles appertaining to the imperial crown of the said United Kingdom and its dependencies, and also the ensigns, armorial flags and banners thereof, shall be such as his Majesty, by his royal proclamation under the great seal of the United Kingdom, shall be pleased to appoint.

Article Second

Succession to the crown.—That it be the Second Article of Union, that the succession to the imperial crown of the said United Kingdom, and of the dominions thereunto belonging, shall continue limited and settled in the same manner as the succession to the imperial crown of the said kingdoms of Great Britain and Ireland now stands limited and settled, according to the existing laws and to the terms of union between England and Scotland.

Article Third

Representation in Parliament.—That it be the Third Article of Union, that the said United Kingdom be represented in one and the same Parliament, to be stiled the Parliament of the United Kingdom of Great Britain and Ireland.

Article Fourth

Lords spiritual and temporal and commoners to sit in Parliament.—That it be the Fourth Article of Union, that four lords spiritual of Ireland by rotation of sessions, and twenty-eight lords temporal of Ireland elected for life by the peers of Ireland, shall be the number to sit and vote on the part of Ireland in the House of Lords of the Parliament of the United Kingdom; and one hundred commoners (two for each county of Ireland, two for the City of Dublin, two for the City of Cork, one for the university of Trinity College, and one for each of the thirty-one most considerable

cities, towns and boroughs,) be the number to sit and vote on the part of Ireland in the House of Commons of the Parliament of the United Kingdom:

Act passed in Ireland to regulate the summoning and returning of lords and commoners to be considered part of the treaty of union.—That such Act as shall be passed in the Parliament of Ireland previous to the union, to regulate the mode by which the lords spiritual and temporal and the commons, to serve in the Parliament of the United Kingdom on the part of Ireland, shall be summoned and returned to the said Parliament, shall be considered as forming part of the treaty of union, and shall be incorporated in the Acts of the respective Parliaments by which the said union shall be ratified and established:

Questions touching the rotation or election of lords of Ireland to be decided by the House of Lords.—That all questions touching the rotation or election of lords spiritual or temporal of Ireland to sit in the Parliament of the United Kingdom shall be decided by the House of Lords thereof; and whenever, by reason of an equality of votes in the election of any such lords temporal, a complete election shall not be made according to the true intent of this article, the names of those peers, for whom such equality of votes shall be so given, shall be written on pieces of paper of a similar form, and shall be put into a glass by the clerk of the Parliaments at the table of the House of Lords whilst the house is sitting; and the peer or peers, whose name or names shall be first drawn out by the clerk of the Parliaments, shall be deemed the peer or peers elected, as the case may be:

Any peer of Ireland may be elected to serve in the House of Commons of the United Kingdom, unless previously elected to sit in the House of Lords.—That any person holding any peerage of Ireland now subsisting, or hereafter to be created, shall not thereby be disqualified from being elected to serve, if he shall so think fit, or from serving or continuing to serve, if he shall so think fit, for any county, city or borough of Great Britain, in the House of Commons of the United Kingdom, unless he shall have been previously elected as above to sit in the House of Lords of the United Kingdom; but that so long as such peer of Ireland shall so continue to be a member of the House of Commons, he shall not be entitled to the privilege of peerage, nor be capable of being elected to serve as a peer on the part of Ireland, or of voting at any such election; and that he shall be liable to be sued, indicted, proceeded against and tried as a commoner, for any offence with which he may be charged:

His Majesty may create peers and make promotions in the peerage of Ireland—Number of Irish peers not entitled to an hereditary seat in the House of Lords of the United Kingdom may be kept up to 100.—That it shall be lawful for his Majesty, his heirs and successors, to create peers of that part of the United Kingdom called Ireland, and to make promotions in the peerage thereof, after the union; provided that no new creation of any such peers shall take place after the union, until three of the peerages of Ireland which shall have been existing at the time of the union shall have become extinct; and upon such extinction of three peerages that it shall be lawful for his Majesty, his heirs and successors, to create one peer of that part of the United Kingdom called Ireland; and in like manner so often as three peerages of that part of the United Kingdom called Ireland shall become extinct, it shall be

lawful for his Majesty, his heirs and successors, to create one other peer of the said part of the United Kingdom; and if it shall happen that the peers of that part of the United Kingdom called Ireland shall, by extinction of peerages or otherwise, be reduced to the number of one hundred exclusive of all such peers of that part of the United Kingdom called Ireland as shall hold any peerage of Great Britain subsisting at the time of the union, or of the United Kingdom created since the union, by which such peers shall be entitled to an hereditary seat in the House of Lords of the United Kingdom then and in that case it shall and may be lawful for his Majesty, his heirs and successors, to create one peer of that part of the United Kingdom called Ireland, as often as any one of such one hundred peerages shall fail by extinction, or as often as any one peer of that part of the United Kingdom called Ireland shall become entitled by descent or creation to an hereditary seat in the House of Lords of the United Kingdom; it being the true intent and meaning of this article, that at all times after the union it shall and may be lawful for his Majesty, his heirs and successors, to keep up the peerage of that part of the United Kingdom called Ireland to the number of one hundred, over and above the number of such of the said peers as shall be entitled by descent or creation to an hereditary seat in the House of Lords of the United Kingdom:

Peerages in abeyance and peerages deemed extinct.—That if any peerage shall at any time be in abeyance such peerage shall be deemed and taken as an existing peerage; and no peerage shall be deemed extinct, unless on default of claimants to the inheritance of such peerage for the space of one year from the death of the person who shall have been last possessed thereof; and if no claim shall be made to the inheritance of such peerage, in such form and manner as may from time to time be prescribed by the House of Lords of the United Kingdom, before the expiration of the said period of a year, then and in that case such peerage shall be deemed extinct; provided that nothing herein shall exclude any person from afterwards putting in a claim to the peerage so deemed extinct; and if such claim shall be allowed as valid by judgement of the House of Lords of the United Kingdom, reported to his Majesty, such peerage shall be considered as revived; and in case any new creation of a peerage of that part of the United Kingdom called Ireland shall have taken place in the interval, in consequence of the supposed extinction of such peerage, then no new right of creation shall accrue to his Majesty, his heirs or successors in consequence of the next extinction which shall take place of any peerage of that part of the United Kingdom called Ireland:

Questions touching the election of members to sit in the House of Commons of the United Kingdom on the Part of Ireland.—That all questions touching the election of members to sit on the part of Ireland in the House of Commons of the United Kingdom shall be heard and decided in the same manner as questions touching such elections in Great Britain now are or at any time hereafter shall be law be heard and decided; subject nevertheless to such particular regulations in respect of Ireland as, from local circumstances, the Parliament of the United Kingdom may from time to time deem expedient:

[*Paragraph concerning the qualification of members rep. 21 & 22 Vict. c. 26*]

Proclamation to issue to cause the lords and commons who are to serve on the part of Ireland to be returned.—That when his Majesty, his heirs or successors, shall declare his, her or their pleasure for holding the first or any subsequent Parliament of the United Kingdom, a proclamation shall issue, under the Great Seal of the United Kingdom, to cause the lords spiritual and temporal, and commons, who are to serve in the Parliament thereof on the part of Ireland, to be returned in such manner as by any Act of this present session of the Parliament of Ireland shall be provided; and that the lords spiritual and temporal and Commons of Great Britain shall, together with the lords spiritual and temporal and commons so returned as aforesaid on the part of Ireland, constitute the two houses of the Parliament of the United Kingdom:

[*Paragraph concerning the Parliament then existing, etc. rep. 34 & 35 Vict. c. 116 (S.L.R.).*]

All peerages of Great Britain and of Ireland to be considered as peerages of the United Kingdom, and the peers of Ireland to enjoy the same privileges (except those depending upon sitting in the House of Lords) as the peers of Great Britain.—That the lords of Parliament on the part of Ireland in the House of Lords of the United Kingdom, shall at all times have the same privileges of Parliament which shall belong to the lords of Parliament on the part of Great Britain; and the lords spiritual and temporal respectively on the part of Ireland shall at all times have the same rights in respect of their sitting and voting upon the trial of peers as the lords spiritual and temporal respectively on the part of Great Britain; and that all lords spiritual of Ireland shall have rank and precedence next and immediately after the lords spiritual of the same rank and degree of Great Britain, and shall enjoy all privileges as fully as the lords spiritual of Great Britain do now or may hereafter enjoy the same (the right and privilege of sitting in the House of Lords and the privileges depending thereon, and particularly the right of sitting on the trial of peers, excepted); and that the persons holding any temporal peerages of Ireland existing at the time of the union shall, from and after the union, have rank and precedence next and immediately after all the persons holding peerages of the like orders and degrees in Great Britain subsisting at the time of the union; and that all peerages of Ireland created after the union shall have rank and precedence with the peerages of the United Kingdom so created, according to the dates of their creations; and that all peerages both of Great Britain and Ireland now subsisting or hereafter to be created shall in all other respects from the date of the union be considered as peerages of the United Kingdom; and that the peers of Ireland shall, as peers of the United Kingdom, be sued and tried as peers, except as aforesaid, and shall enjoy all privileges of peers as fully as the peers of Great Britain, the right and privilege of sitting in the House of Lords and the privileges depending thereon, and the right of sitting on the trial of peers, only excepted.

Article Fifth

The churches of England and Ireland to be united into one Protestant Episcopal Church, and the doctrine of the Church of Scotland to remain as now established.—That it be the Fifth Article of Union, that the churches of England and Ireland as now by law established be united

into one Protestant Episcopal Church, to be called the United Church of England and Ireland; and that the doctrine, worship, discipline and government of the said united Church, shall be and shall remain in full force for ever, as the same are now by law established for the Church of England; and that the continuance and preservation of the said united Church, as the established Church of England and Ireland, shall be deemed and taken to be an essential and fundamental part of the union; and that in like manner the doctrine, worship, discipline and government of the Church of Scotland shall remain and be preserved as the same are now established by law and by the Acts for the union of the two kingdoms of England and Scotland.

As to the disestablishment of the Church of Ireland, see the Irish Church Act, 1869 (c. 42).

Article Sixth

The subjects of Great Britain and Ireland to be on the same footing in respect of trade and navigation, and of all treaties with foreign powers.—That it be the Sixth Article of Union, that his Majesty's subjects of Great Britain and Ireland shall from and after the first day of January one thousand eight hundred and one be entitled to the same privileges and be on the same footing, as to encouragements and bounties on the like articles, being the growth, produce or manufacture of either country respectively, and generally in respect of trade and navigation in all ports and places in the United Kingdom and its dependencies; and that in all treaties made by his Majesty his heirs and successors, with any foreign power, his Majesty's subjects of Ireland shall have the same privileges and be on the same footing as his Majesty's subjects of Great Britain:

Prohibitions and bounties on export of articles to cease—All articles not herein-after enumerated as subject to specific duties, to be imported into each country from the other duty free.—That from the first day of January one thousand eight hundred and one all prohibitions and bounties on the export of articles, the growth, produce or manufacture of either country, to the other shall cease and determine; and that the said articles shall thenceforth be exported from one country to the other without duty or bounty on such export: That all articles, the growth, produce or manufacture of either country (not herein-after enumerated as subject to specific duties), shall from thenceforth be imported into each country from the other free from duty other than such countervailing duties on the several articles enumerated in the schedule number one A. and B. hereunto annexed as are therein specified, or to such other countervailing duties as shall hereafter be imposed by the Parliament of the United Kingdom, in the manner herein-after provided; . . .

[*Paragraph 4 (duties on calicoes and muslins) rep. 34 & 35 Vict. c. 116 (S.L.R.).*]

Articles of either country, subject to internal duty or to duty on the materials, may be subjected on importation into each country to countervailing duties; and upon their export a drawback of the duty shall be allowed.—That any articles of the growth, produce or manufacture of either country, which are or may be subject to internal duty or to duty on the materials of which they are composed, may be made subject, on their importation into each country respectively from the other, to

such countervailing duty as shall appear to be just and reasonable in respect of such internal duty or duties on the materials; and that for the said purposes the articles specified in the said schedule number one A. and B., shall be subject to the duties set forth therein, liable to be taken off, diminished or increased in the manner herein specified; and that upon the export of the said articles from each country to the other respectively, a drawback shall be given equal in amount to the countervailing duty payable on such articles on the import thereof into the same country from the other; and that in like manner in future it shall be competent to the united Parliament to impose any new or additional countervailing duties, or to take off or diminish such existing countervailing duties as may appear, on like principles, to be just and reasonable in respect of any future or additional internal duty on any article of the growth, produce or manufacture of either country, or of any new or additional duty on any materials of which such article may be composed, or of any abatement of duty on the same; and that when any such new or additional countervailing duty shall be so imposed on the import of any article into either country from the other, a drawback, equal in amount to such countervailing duty, shall be given in like manner on the export of every such article respectively from the same country to the other:

That all articles, the growth, produce or manufacture of either country, when exported through the other, shall in all cases be exported subject to the same charges as if they had been exported directly from the country of which they were the growth, produce or manufacture:

[*The last paragraph of Article 6 (Duties, etc.) and the schedule thereto, rep. 34 & 35 Vict. c. 116 (S.L.R.).*]

Article Seventh

Interest and sinking fund of either kingdom to be defrayed separately.—That it be the Seventh Article of Union, that the charge arising from the payment of the interest, and the sinking fund for the reduction of the principal, of the debt incurred in either kingdom before the union, shall continue to be separately defrayed by Great Britain and Ireland respectively, except as herein-after provided:

The expenditure of the United Kingdom to be defrayed and provided for as herein specified.—That for the space of twenty years after the union shall take place the contribution of Great Britain and Ireland respectively towards the expenditure of the United Kingdom in each year shall be defrayed in the proportion of fifteen parts for Great Britain and two parts for Ireland; and that at the expiration of the said twenty years the future expenditure of the United Kingdom (other than the interest and charges of the debt to which either country shall be separately liable) shall be defrayed in such proportion as the Parliament of the United Kingdom shall deem just and reasonable, upon a comparison of the real value of the exports and imports of the respective countries upon an average of the three years next preceding the period of revision; or on a comparison of the value of the quantities of the following articles consumed within the respective countries on a similar average, videlicet, beer, spirits, sugar, wine, tea, tobacco and malt: or according to the aggregate proportion resulting from both these considerations combined; or on a comparison of the amount of income

in each country, estimated from the produce for the same period of a general tax, if such shall have been imposed on the same descriptions of income in both countries; and that the Parliament of the United Kingdom shall afterwards proceed in like manner to revise and fix the said proportions according to the same rules, or any of them, at periods not more distant than twenty years nor less than seven years from each other; unless previous to any such period the Parliament of the United Kingdom shall have declared, as herein-after provided, that the expenditure of the United Kingdom shall be defrayed indiscriminately by equal taxes imposed on the like articles in both countries; That for the defraying the said expenditure according to the rules above laid down the revenues of Ireland shall hereafter constitute a consolidated fund, which shall be charged, in the first instance, with the interest of the debt of Ireland and with the sinking fund applicable to the reduction of the said debt, and the remainder shall be applied towards defraying the proportion of the expenditure of the United Kingdom, to which Ireland may be liable in each year: That the proportion of contribution to which Great Britain and Ireland will be liable shall be raised by such taxes in each country respectively as the Parliament of the United Kingdom shall from time to time deem fit: Provided always, that in regulating the taxes in each country, by which their respective proportions shall be levied, no article in Ireland shall be made liable to any new or additional duty, by which the whole amount of duty payable thereon would exceed the amount which will be thereafter payable in England on the like article: That if at the end of any year any surplus shall accrue from the revenues of Ireland, after defraying the interest, sinking fund, and proportional contribution and separate charges to which the said country shall then be liable, taxes shall be taken off to the amount of such surplus, or the surplus shall be applied by the Parliament of the United Kingdom to local purposes in Ireland, or to make good any deficiency which may arise in the revenues of Ireland in time of peace, or be invested by the Commissioners of the National Debt of Ireland in the funds, to accumulate for the benefit of Ireland at compound interest, in ease of the contribution of Ireland in time of war; provided that the surplus so to accumulate shall at no future period be suffered to exceed the sum of five millions: That all monies to be raised after the union by loan, in peace or war, for the service of the United Kingdom by the Parliament thereof, shall be considered to be a joint debt, and the charges thereof shall be borne by the respective countries in the proportion of their respective contributions; provided that if at any time, in raising their respective contributions hereby fixed for each country, the Parliament of the United Kingdom shall judge it fit to raise a greater proportion of such respective contributions in one country within the year than in the other, or to set apart a greater proportion of sinking fund for the liquidation of the whole or any part of the loan raised on account of the one country than of that raised on account of the other country, then such part of the said loan, for the liquidation of which different provisions shall have been made for the respective countries, shall be kept distinct, and shall be borne by each separately, and only that part of the said loan be deemed joint and common, for the reduction of which the respective countries shall have made provision in the proportion of their respective contributions: That if at any future day the separate debt of each country respectively shall

have been liquidated, or if the values of their respective debts (estimated according to the amount of the interest and annuities attending the same and of the sinking fund applicable to the reduction thereof, and to the period within which the whole capital of such debts shall appear to be redeemable by such sinking fund) shall be to each other in the same proportion with the respective contributions of each country respectively, or if the amount by which the value of the larger of such debts shall vary from such proportion shall not exceed one hundredth part of the said value, and if it shall appear to the Parliament of the United Kingdom that the respective circumstances of the two countries will thenceforth admit of their contributing indiscriminately, by equal taxes imposed on the same articles in each, to the future expenditure of the United Kingdom, it shall be competent to the Parliament of the United Kingdom to declare that all future expence thenceforth to be incurred, together with the interest and charges of all joint debts contracted previous to such declaration, shall be so defrayed indiscriminately by equal taxes imposed on the same articles in each country, and thenceforth from time to time, as circumstances may require, to impose and apply such taxes accordingly, subject only to such particular exemptions or abatements in Ireland, and in that part of Great Britain called Scotland, as circumstances may appear from time to time to demand: That from the period of such declaration it shall no longer be necessary to regulate the contribution of the two countries towards the future expenditure of the United Kingdom according to any specifick proportion, or according to any of the rules hereinbefore prescribed; provided nevertheless, that the interest or charges which may remain on account of any part of the separate debt with which either country shall be chargeable, and which shall not be liquidated or consolidated proportionably as above, shall, until extinguished, continue to be defrayed by separate taxes in each country: That a sum, not less than the sum which has been granted by the Parliament of Ireland on the average of six years immediately preceding the first day of January in the year one thousand eight hundred, in premiums for the internal encouragement of agriculture or manufactures, or for the maintaining institutions for pious and charitable purposes, shall be applied, for the period of twenty years after the union, to such local purposes, in Ireland in such manner as the Parliament of the United Kingdom shall direct: That from and after the first day of January one thousand eight hundred and one all publick revenue arising to the United Kingdom from the territorial dependencies thereof, and applied to the general expenditure of the United Kingdom, shall be so applied in the proportions of the respective contributions of the two countries.

Article Eighth

All laws in force at the union, and all courts of jurisdiction within the respective kingdoms, to remain, subject to such alterations as may appear proper to the united Parliament.—That it be the Eighth Article of Union, that all laws in force at the time of the union, and all the courts of civil and ecclesiastical jurisdiction within the respective kingdoms, shall remain as now by law established within the same, subject only to such alterations and regulations from time to time as circumstances may appear to the Parliament of the United Kingdom to require; provided that all writs of error and appeals depending at the time of the union or hereafter

to be brought, and which might now be finally decided by the House of Lords of either kingdom, shall from and after the union be finally decided by the House of Lords of the United Kingdom; and provided that from and after the union there shall remain in Ireland an Instance Court of Admiralty for the determination of causes civil and maritime only, and that the appeal from sentences of the said court shall be to his Majesty's delegates in his Court of Chancery in that part of the United Kingdom called Ireland; and that all laws at present in force in either kingdom, which shall be contrary to any of the provisions which may be enacted by any Act for carrying these articles into effect, be from, and after the union repealed.

[1] Foregoing articles to be the articles of union.—And whereas the said articles having, by address of the respective Houses of Parliament in Great Britain and Ireland, been humbly laid before his Majesty, his Majesty has been graciously pleased to approve the same, and to recommend it to his two Houses of Parliament in Great Britain and Ireland to consider of such measures as may be necessary for giving effect to the said articles: In order therefore to give full effect and validity to the same, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the said foregoing recited articles, each and every one of them, according to the true import and tenor thereof, be ratified, confirmed and approved, and be and they are hereby declared to be the Articles of the Union of Great Britain and Ireland, and the same shall be in force and have effect for ever, from the first day of January which shall be in the year of our Lord one thousand eight hundred and one; provided that before that period an Act shall have been passed by the Parliament of Ireland, for carrying into effect in the like manner the said foregoing recited articles.

2. Recital of an Act of the Parliament of Ireland to regulate the mode by which the lords and the commons to serve in the Parliament of the United Kingdom on the part of Ireland shall be summoned and returned.—And whereas an Act, intituled "An Act to regulate the mode by which the lords spiritual and temporal, and the commons, to serve in the Parliament of the United Kingdom on the part of Ireland, shall be summoned and returned to the said Parliament," has been passed by the Parliament of Ireland, the tenor whereof is as follows: 'An Act to regulate the mode by which the lords spiritual and temporal, and the commons, to serve in the Parliament of the United Kingdom on the part of Ireland, shall be summoned and returned to the said Parliament. Whereas it is agreed by the Fourth Article of Union, that four lords spiritual of Ireland by rotation of sessions, and twenty-eight lords temporal of Ireland elected for life by the peers of Ireland, shall be the number to sit and vote on the part of Ireland in the House of Lords of the Parliament of the United Kingdom; and one hundred commoners (two for each county of Ireland, two for the city of Dublin, two for the city of Cork, one for the college of the Holy Trinity of Dublin, and one for each of the thirty-one most considerable cities, towns and boroughs,) shall be the number to sit and vote on the part of Ireland in the House of Commons of the Parliament of the United Kingdom: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the

‘lords spiritual and temporal, and commons, in this present Parliament assembled, and by authority of the same, that the said four lords spiritual shall be taken from among the lords spiritual of Ireland in the manner following; that is to say, that one of the four archbishops of Ireland and three of the eighteen bishops of Ireland shall sit in the House of Lords of the united Parliament in each session thereof, the said right of sitting being regulated as between the said archbishops respectively by a rotation among the archiepiscopal sees from session to session, and in like manner that of the bishops by a like rotation among the episcopal sees: That the primate of all Ireland for the time being shall sit in the first session of the Parliament of the United Kingdom, the archbishop of Dublin for the time being in the second, the archbishop of Cashel for the time being in the third, the archbishop of Tuam for the time being in the fourth, and so by rotation of sessions for ever, such rotation to proceed regularly and without interruption from session to session, notwithstanding any dissolution or expiration of Parliament: That three suffragan bishops shall in like manner sit according to rotation of their sees from session to session, in the following order; the lord bishop of Meath, the lord bishop of Kildare, the lord bishop of Derry, in the first session of the Parliament of the United Kingdom; the lord bishop of Raphoe, the lord bishop of Limerick, Ardfert and Aghadoe, the lord bishop of Dromore, in the second session of the Parliament of the United Kingdom; the lord bishop of Elphin, the lord bishop of Down and Connor, the lord bishop of Waterford and Lismore, in the third session of the Parliament of the United Kingdom; the lord bishop of Leighlin and Ferns, the lord bishop of Cloyne, the lord bishop of Cork and Ross, in the fourth session of the Parliament of the United Kingdom; the lord bishop of Killaloe and Kilfenora, the lord bishop of Kilmore, the lord bishop of Clogher, in the fifth session of the Parliament of the United Kingdom; the lord bishop of Ossory, the lord bishop of Killala and Achonry, the lord bishop of Clonfert and Kilmacduagh, in the sixth session of the Parliament of the United Kingdom; the said rotation to be nevertheless subject to such variation therefrom from time to time as is herein-after provided: That the said twenty-eight lords temporal shall be chosen by all the temporal peers of Ireland in the manner herein-after provided; that each of the said lords temporal so chosen shall be entitled to sit in the House of Lords of the Parliament of the United Kingdom during his life; and in case of his death, or forfeiture of any of the said lords temporal, the temporal peers of Ireland shall, in the manner herein-after provided, choose another peer out of their own number to supply the place so vacant. And be it enacted, that of the one hundred commoners to sit on the part of Ireland in the United Parliament sixty-four shall be chosen for the counties and thirty-six for the following cities and boroughs, videlicet: For each county of Ireland two; for the city of Dublin two; for the city of Cork two; for the college of the Holy Trinity of Dublin one; for the city of Waterford one; for the city of Limerick one; for the borough of Belfast one; for the county and town of Drogheda one; for the county and town of Carrickfergus one; for the borough of Newry one; for the city of Kilkenny one; for the city of Londonderry one; for the town of Galway one; for the borough of Clonmell one; for the town of Wexford one; for the town of Yougall one; for the town of Bandon-Bridge one; for the borough of Armagh one;

'for the borough of Dundalk one; for the town of Kinsale one; for the
 'borough of Lisburne one; for the borough of Sligo one; for the borough
 'of Catherlough one; for the borough of Ennis one; for the borough of
 'Dungarvan one; for the borough of Downpatrick one; for the borough
 'of Colrairie one; for the town of Mallow one; for the borough of Athlone
 'one; for the town of New Ross one; for the borough of Tralee one;
 'for the city of Cashel one; for the borough of Dungannon one; for the
 'borough of Portarlinton one; for the borough of Enniskillen one. And
 'be it enacted, that in case of the summoning of a new Parliament, or if
 'the seat of any of the said commoners shall become vacant by death or
 'otherwise, then the said counties, cities or boroughs, or any of them,
 'as the case may be, shall proceed to a new election; and that all the other
 'towns, cities, corporations or boroughs, other than the aforesaid, shall
 'cease to elect representatives to serve in Parliament; and no meeting
 'shall at any time hereafter be summoned, called, convened or held for
 'the purpose of electing any person or persons to serve or act or be con-
 'sidered as representative or representatives of any other place, town, city,
 'corporation or borough, other than the aforesaid, or as representative or
 'representatives of the freemen, freeholders, householders or inhabitants
 'thereof, either in the Parliament of the United Kingdom or elsewhere
 '(unless it shall hereafter be otherwise provided by the Parliament of the
 'United Kingdom); and every person summoning, calling or holding any
 'such meeting or assembly, or taking any part in any such election or
 'pretended election shall, being thereof duly convicted, incur and suffer
 'the pains and penalties ordained and provided by the statute of provision
 'and præmunire made in the sixteenth year of the reign of Richard the
 'Second. For the due election of the persons to be chosen to sit in the
 'respective Houses of the Parliament of the United Kingdom on the part
 'of Ireland, be it enacted, that on the day following that on which the
 'Act for establishing the union shall have received the royal assent, the
 'primate of all Ireland, the lord bishop of Meath, the lord bishop of Kil-
 'dare, and the lord bishop of Derry, shall be and they are hereby declared
 'to be the representatives of the lords spiritual of Ireland in the Parliament
 'of the United Kingdom for the first session thereof; and that the temporal
 'peers of Ireland shall assemble at twelve of the clock on the same day as
 'aforesaid, in the now accustomed place of meeting of the House of Lords
 'of Ireland, and shall then and there proceed to elect twenty-eight lords
 'temporal to represent the peerage of Ireland in the Parliament of the
 'United Kingdom in the following manner; that is to say, the names of
 'the peers shall be called over according to their rank by the clerk of the
 'Crown or his deputy, who shall then and there attend for that purpose;
 'and each of the said peers who previous to the said day and in the present
 'Parliament shall have actually taken his seat in the House of Lords of
 'Ireland, and who shall there have taken the oaths and signed the declara-
 'tion which are or shall be by law required to be taken and signed by the
 'lords of the Parliament of Ireland before they can sit and vote in the
 'Parliament hereof, shall, when his name is called, deliver, either by
 'himself or by his proxy (the name of such proxy having been previously
 'entered in the books of the House of Lords of Ireland according to the
 'present forms and usages thereof), to the clerk of the Crown or his
 'deputy (who shall then and there attend for that purpose) a list of
 'twenty-eight of the temporal peers of Ireland; and the clerk of the

'Crown or his deputy shall then and there publickly read the said lists, 'and shall then and there cast up the said lists, and publickly declare 'the names of the twenty-eight lords who shall be chosen by the majority 'of votes in the said lists, and shall make a return of the said names to 'the House of Lords of the first Parliament of the United Kingdom; and 'the twenty-eight lords so chosen by the majority of votes in the said 'lists shall, during their respective lives, sit as representatives of the peers 'of Ireland in the House of Lords of the United Kingdom, and be entitled 'to receive writs of summons to that and every succeeding Parliament; 'and in case a complete election shall not be made of the whole number 'of twenty-eight peers by reason of an equality of votes, the clerk of the 'Crown shall return such number in favour of whom a complete election 'shall have been made in one list, and in a second list shall return the 'names of those peers who shall have an equality of votes, but in favour 'of whom by reason of such equality a complete election shall not have 'been made, and the names of the peers in the second list, for whom an 'equal number of votes shall have been so given, shall be written on 'pieces of paper of a similar form, and shall be put into a glass by the clerk 'of the Parliament of the United Kingdom at the table of the House of 'Lords thereof whilst the House is sitting, and the peer whose name shall 'be first drawn out by the clerk of the Parliament shall be deemed the peer 'elected, and so successively as often as the case may require; and when- 'ever the seat of any of the twenty-eight lords temporal so elected shall 'be vacated by decease or forfeiture, the chancellor, the keeper or com- 'missioners of the great seal of the United Kingdom for the time being, 'upon receiving a certificate under the hand and seal of any two lords 'temporal of the Parliament of the United Kingdom certifying the decease 'of such peer, or on view of the record of attainder of such peer, shall 'direct a writ to be issued under the great seal of the United Kingdom to 'the chancellor, the keeper or commissioners of the great seal of Ireland 'for the time being, directing him or them to cause writs to be issued 'by the clerk of the Crown in Ireland to every temporal peer of Ireland 'who shall have sat and voted in the House of Lords of Ireland before the 'union, or whose right to sit and vote therein or to vote at such elections 'shall on claim made on his behalf have been admitted by the House of 'Lords of Ireland before the union, or after the union by the House of 'Lords of the United Kingdom; and notice shall forthwith be published 'by the said clerk of the Crown in the London and Dublin Gazettes of the 'issuing of such writs, and of the names and titles of all the peers to whom 'the same are directed; and to the said writs there shall be annexed a form 'of return thereof in which a blank shall be left for the name of the peer 'to be elected, and the said writs shall enjoin each peer within fifty-two 'days from the teste of the writ to return the same into the Crown Office 'of Ireland with the blank filled up, by inserting the name of the peer for 'whom he shall vote as the peer to succeed to the vacancy made by demise 'or forfeiture as aforesaid; and the said writs and returns shall be bipartite, 'so as that the name of the peer to be chosen shall be written twice, that is, 'once on each part of such writ and return, and so as that each part may 'also be subscribed by the peer to whom the same shall be directed, and 'likewise be sealed with his seal of arms; and one part of the said writs 'and returns, so filled up, subscribed and sealed as above, shall remain 'of record in the Crown Office of Ireland, and the other part shall be

'certified by the clerk of the Crown to the clerk of the Parliament of the United Kingdom; and no peer of Ireland, except such as shall have been elected as representative peers on the part of Ireland in the House of Lords of the United Kingdom, and shall there have taken the oaths and signed the declaration prescribed by law, shall, under pain of suffering such punishment as the House of Lords of the United Kingdom may award and adjudge, make a return to such writ, unless he shall, after the issuing thereof and before the day on which the writ is returnable, have taken the oaths and signed the declaration which are or shall be by law required to be taken and signed by the lords of the United Kingdom before they can sit and vote in the Parliament thereof; which oaths and declaration shall be either taken and subscribed in the Court of Chancery of Ireland, or before one of his Majesty's justices of the peace of that part of the United Kingdom called Ireland, a certificate whereof, signed by such justices of the peace or by the register of the said Court of Chancery, shall be transmitted by such peer with the return, and shall be annexed to that part thereof remaining of record in the Crown Office of Ireland; and the clerk of the Crown shall forthwith after the return day of the writs cause to be published in the London and Dublin Gazettes a notice of the name of the person chosen by the majority of votes, and the peer so chosen shall during his life be one of the peers to sit and vote on the part of Ireland in the House of Lords of the United Kingdom; and in case the votes shall be equal, the names of such persons who have an equal number of votes in their favour shall be written on pieces of paper of a similar form and shall be put into a glass by the clerk of the Parliament of the United Kingdom at the table of the House of Lords whilst the House is sitting, and the peer whose name shall be first drawn out by the clerk of the Parliament shall be deemed the peer elected. And be it enacted, that in case any lord spiritual, being a temporal peer of the United Kingdom or being a temporal peer of that part of the United Kingdom called Ireland, shall be chosen by the lords temporal to be one of the representatives of the lords temporal, in every such case during the life of such spiritual peer being a temporal peer of the United Kingdom or being a temporal peer of that part of the United Kingdom called Ireland, so chosen to represent the lords temporal, the rotation of representation of the spiritual lords shall proceed to the next spiritual lord, without regard to such spiritual lord so chosen a temporal peer, that is to say, if such spiritual lord shall be an archbishop, then the rotation shall proceed to the archbishop whose see is next in rotation, and if such spiritual lord shall be a suffragan bishop, then the rotation shall proceed to the suffragan bishop whose see is next in rotation. And whereas by the said Fourth Article of Union it is agreed that if his Majesty shall on or before the first day of January next declare under the great seal of Great Britain that it is expedient that the lords and commons of the present Parliament of Great Britain should be the members of the respective Houses of the first Parliament of the United Kingdom on the part of Great Britain, then the lords and commons of the present Parliament of Great Britain shall accordingly be the members of the respective Houses of the first Parliament of the United Kingdom on the part of Great Britain: Be it enacted, for and in that case only, that the present members of the thirty-two counties of Ireland, and the two members for the city of Dublin, and the two members for the city of Cork, shall

'be and they are hereby declared to be by virtue of this Act members for
'the said counties and cities in the first Parliament of the United Kingdom;
'and that, on a day and hour to be appointed by his Majesty under the
'great seal of Ireland, previous to the said first day of January one thou-
'sand eight hundred and one, the members then serving for the college of
'the Holy Trinity of Dublin and for each of the following cities or bor-
'oughs, that is to say, the city of Waterford, city of Limerick, borough of
'Belfast, county and town of Drogheda, county and town of Carrickfergus,
'borough of Newry, city of Kilkenny, city of Londonderry, town of Gal-
'way, borough of Clonmell, town of Wexford, town of Youghall, town of
'Bandon-Bridge, borough of Armagh, borough of Dundalk, town of
'Kinsale, borough of Lisburne, borough of Sligo, borough of Catherlough,
'borough of Ennis, borough of Dungarvan, borough of Downpatrick,
'borough of Coleraine, town of Mallow, borough of Athlone, town of New
'Ross, borough of Tralee, city of Cashel, borough of Dungannon, borough
'of Portarlinton and borough of Enniskillen, or any five or more of
'them, shall meet in the now usual place of meeting of the House of
'Commons of Ireland, and the names of the members then serving for the
'said places and borough shall be written on separate pieces of paper, and
'the said papers being folded up shall be placed in a glass or glasses, and
'shall successively be drawn thereout by the clerk of the Crown or his
'deputy, who shall then and there attend for that purpose, and the first
'drawn name of a member of each of the aforesaid places or boroughs
'shall be taken as the name of the member to serve for the said place or
'borough in the first Parliament of the United Kingdom; and a return of
'the said names shall be made by the clerk of the Crown or his deputy to
'the House of Commons of the first Parliament of the United Kingdom,
'and a certificate thereof shall be given respectively by the said clerk of
'the Crown or his deputy to each of the members whose names shall have
'been so drawn: Provided always, that it may be allowed to any member
'of any of the said places or boroughs, by personal application to be then
'and there made by him to the clerk of the Crown or his deputy, or by
'declaration in writing under his hand to be transmitted by him to the
'clerk of the Crown previous to the said day so appointed as above, to
'withdraw his name previous to the drawing of the names by lot, in which
'case, or in that of a vacancy by death or otherwise of one of the members
'of any of the said places or boroughs at the time of so drawing the names,
'the name of the other member shall be returned as aforesaid, as the
'name of the member to serve for such place in the first Parliament of the
'United Kingdom; or if both members for any such place or borough shall
'so withdraw their names, or if there shall be a vacancy of both members
'at the time aforesaid, the clerk of the Crown shall certify the same to the
'House of Commons of the first Parliament of the United Kingdom, and
'shall also express in such return whether any writ shall then have issued
'for the election of a member or members to supply such vacancy; and if
'a writ shall so have issued for the election of one member only, such writ
'shall be superseded, and any election to be thereafter made thereupon
'shall be null and of no effect; and if such writ shall have issued for the
'election of two members, the said two members shall be chosen accord-
'ingly, and their names being returned by the clerk of the Crown to the
'House of Commons of the Parliament of the United Kingdom, one of
'the said names shall then be drawn by lot in such manner and time as the

'said House of Commons shall direct, and the person whose name shall be 'so drawn shall be deemed to be the member to sit for such place in the 'first Parliament of the United Kingdom; but if at the time aforesaid 'no writ shall have issued to supply such vacancy, none shall thereafter 'issue until the same be ordered by resolution of the House of Commons 'of the Parliament of the United Kingdom, as in the case of any other 'vacancy of a seat in the House of Commons, of the Parliament of the 'United Kingdom. And be it enacted, that whenever his Majesty, his 'heirs and successors, shall by proclamation under the great seal of the 'United Kingdom summon a new Parliament of the United Kingdom 'of Great Britain and Ireland, the chancellor, keeper or commissioners 'of the great seal of Ireland, shall cause writs to be issued to the several 'counties, cities, the college of the Holy Trinity of Dublin, and boroughs 'in that part of the United Kingdom called Ireland, specified in this Act, 'for the election of members to serve in the Parliament of the United 'Kingdom according to the numbers herein-before set forth; and whenever 'any vacancy of a seat in the House of Commons of the Parliament of the 'United Kingdom for any of the said counties, cities or boroughs, or for 'the said college of the Holy Trinity of Dublin, shall arise by death or 'otherwise, the chancellor, keeper or commissioners of the great seal, 'upon such vacancy being certified to them respectively by the proper 'warrant, shall forthwith cause a writ to issue for the election of a person 'to fill up such vacancy; and such writs and the returns thereon respec- 'tively, being returned into the Crown Office in that part of the United 'Kingdom called Ireland, shall from thence be transmitted to the Crown 'Office in that part of the United Kingdom called England, and be certified 'to the House of Commons in the same manner as the like returns have 'been usually or shall hereafter be certified; and copies of the said writs 'and returns, attested by the chancellor, keeper or commissioners of the 'great seal of Ireland for the time being, shall be preserved in the Crown 'Office of Ireland, and shall be evidence of such writs and returns, in case 'the original writs and returns shall be lost.' Be it enacted, that the said Act so herein recited be taken as a part of this Act, and be deemed to all intents and purposes incorporated within the same.

[The period for the return of the writ in the election of a Lord Temporal was reduced from 52 to 30 days by the Election of Representative Peers (Ireland) Act, 1882 (c. 26).]

3. The great seal of Ireland may, if his Majesty shall think fit, after the union be used there in like manner as before, except where otherwise provided.—And be it enacted, that the great seal of Ireland may, if his Majesty shall so think fit, after the union be used in like manner as before the union, except where it is otherwise provided by the foregoing articles, within that part of the United Kingdom called Ireland; and that his Majesty may, so long as he shall think fit, continue the Privy Council of Ireland to be his Privy Council for that part of the United Kingdom called Ireland.

THE PARLIAMENT ACT

(1 and 2 Geo. 5, c. 13)

An Act to make provision with respect to powers of the House of Lords in relation to those of the House of Commons and to limit the duration of Parliament [18th August 1911]

Whereas it is expedient that provision should be made for regulating the relations between the two Houses of Parliament:

And whereas it is intended to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular instead of a hereditary basis, but such substitution cannot immediately be brought into operation.

And whereas provision will require hereafter to be made by Parliament in a measure effecting such substitution for limiting and defining the powers of the new Second Chamber, but it is expedient to make such provision as in this Act appears for restricting the existing powers of the House of Lords.

[The intentions expressed in this preamble have not yet been fulfilled.]

1. Powers of the House of Lords as to Money Bills.

(a.) If a Money Bill having been passed by the House of Commons, and sent up to the House of Lords at least one month before the end of the session, is not passed by the House of Lords without amendment within one month after it is so sent up to that House, the Bill shall, unless the House of Commons direct to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal Assent being signified notwithstanding that the House of Lords have not consented to the Bill.

(b.) A Money Bill means a Public Bill which in the opinion of the Speaker of the House of Commons contains only provisions dealing with all or any of the following subjects, namely the imposition, repeal, remission, alteration, or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on the Consolidated Fund, or on money provided by Parliament, or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue, or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof; or subordinate matter incidental to these subjects or any of them. In this subsection the expressions "taxation," "public money," and "loan" respectively do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

(c.) There shall be endorsed on every Money Bill when it is sent up to the House of Lords or when it is presented to His Majesty for assent the certificate of the Speaker of the House of Commons signed by him that it is a Money Bill. Before giving his certificate, the Speaker shall consult, if so practicable, two members to be appointed from the Chairman's Panel at the beginning of each session by the Committee of Selection.

2. Restriction of the Power of the House of Lords as to Bills other than Money Bills.

(a.) If any Public Bill (other than a Money Bill or a Bill containing any provision to extend the maximum duration of Parliament beyond five years) is passed by the House of Commons in three successive sessions (whether of the same Parliament or not), and having been sent up to the House of Lords

in each of those sessions, it is rejected by the House of Lords in each of those sessions, that Bill shall, on its rejection for the third time by the House of Lords, unless the Commons direct to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal Assent being signified thereto, notwithstanding that the House of Lords have not consented to the Bill. Provided that this provision shall not take effect unless two years have elapsed between the date of the second reading in the first of those sessions of the Bill in the House of Commons and the date on which it passes the House of Commons in the third of those sessions.

(b.) When a Bill is presented to His Majesty for assent in pursuance of the provisions of this section, there shall be endorsed on the Bill the certificate of the Speaker of the House of Commons signed by him that the provisions have been duly complied with.

(c.) A Bill shall be deemed rejected by the House of Lords if it is not passed by the House of Lords either without amendments or with such amendments only as may be agreed to by both Houses.

(d.) A Bill shall be deemed to be the same Bill as a former Bill sent up to the House of Lords in the preceding session if, when it is sent up to the House of Lords it is identical with the former Bill or contains only such alterations as are certified by the Speaker of the House of Commons to be necessary owing to the time which has elapsed since the date of the former Bill, or to represent any amendments which have been made in the House of Lords in the former Bill in the preceding session, and any amendments which are certified by the Speaker to have been made by the House of Lords in the third session and agreed to by the House of Commons shall be inserted in the Bill as presented for Royal Assent in pursuance of this section:

Provided that the House of Commons may if they think fit, on the passage of such a Bill through the House in the second or third session, suggest any further amendments without inserting the amendments in the Bill, and any such suggested amendments shall be considered by the House of Lords, and, if agreed to by that House, shall be treated as amendments made by the House of Lords and agreed to by the House of Commons, but the exercise of this power by the House of Commons shall not affect the operation of this section in the event of the Bill being rejected by the House of Lords.

3. Certificate of Speaker.—Any certificate of the Speaker of the House of Commons given under this Act shall be conclusive for all purposes and shall not be questioned in any court of law.

4. Enacting words.

(a.) In every Bill presented to His Majesty under the preceding provisions of this Act, the words of enactment shall be as follows, that is to say:—

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Commons in this present Parliament assembled, in accordance with the provisions of the Parliament Act, 1911, and by authority of the same, as follows.

(b.) Any alteration of a Bill necessary to give effect to this section shall not be deemed an amendment to the Bill.

5. Provisional Order Bills excluded.—In this Act the expression "Public Bill" does not include any Bill for confirming a Provisional Order.

6. Saving for existing rights and privileges of the House of Commons.—Nothing in this Act shall diminish or qualify the existing rights and privileges of the House of Commons.

7. Duration of Parliament.—Five years shall be substituted for seven

as the time fixed for the maximum duration of Parliament under the Septennial Act 1715.¹

8. Short Title.—This Act may be cited as the Parliament Act, 1911.

THE STATUTE OF WESTMINSTER, 1931

(22 George V. Chapter 4)

***An act to give effect to certain resolutions passed by
Imperial Conferences held in the years 1926 and 1930.***

[11th December, 1931]

[For the text of this statute—see under Canada, Vol. 1, p. 358.]

¹ For the Act cited, see 1 Geo. 1, stat. 2, c. 38.

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UNITED STATES OF AMERICA

SUMMARY

INTERNATIONAL STATUS

The United States of America is a member of the United Nations.¹ It signed the Charter of that organization on June 26, 1945, and deposited its ratification on August 8, 1945. It also signed the Declaration of the

¹ The United States of America did not claim additional voting power in the Assembly of the League of Nations at the Versailles Conference in 1919 or in the General Assembly of the United Nations at the San Francisco Conference of 1945. Its present voting power is not representative of its actual international status nor does it take into account the federalization which it has accomplished of important sovereign states. This situation

United Nations of January 1, 1942. It was a party to the Paris Treaty of 1928 for the renunciation of war. It did not become a member of the League of Nations, nor did it become a party to the Statute of the Permanent Court of International Justice. It has made a declaration under Article 36 of the Statute of the International Court of Justice of 1945, accepting the compulsory jurisdiction of the new court with some reservations.¹

It is a member of the Organization of the American States, the Postal Union, and various other international organizations.²

The independence of the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia was acknowledged by His Britannic Majesty in a definitive treaty of peace concluded September 3, 1783, and proclaimed January 14, 1784. A confederation of these states had been formed under Articles of Confederation adopted March 1, 1781. A federal union of the same states, established by a constitution which became effective in 1789, was extended during the next sixty years to include the entire area from the Atlantic to the Pacific Ocean between Canada and Mexico. The Territory of Alaska, to the northwest of Canada, was acquired by purchase from Russia in 1867; the Territory of Hawaii was annexed, at the request of the Queen of Hawaii, in 1898; and several island possessions, including the Philippines and Puerto Rico, were ceded by Spain in 1899. The independence of the Philippines was recognized by the United States on July 4, 1946.

FORM OF NATIONAL GOVERNMENT

The Constitution of 1789 makes detailed provisions in three separate articles for the vesting and exercise of the legislative, executive, and judicial powers of the federal government. Most of the remainder of the Constitution is devoted to the relationships between the federal government and the governments of the states and to the relationships among the states. Ten articles of amendment, adopted in 1791, set forth rights reserved to the people and to the several States of the Union. A republican form of government and protection against invasion are guaranteed by the United States to each of the states of the union.³

The Constitution of the United States of America is the oldest written national constitution now in force. Many of its principles and

and comparable situations of some other large federal nations, will presumably call for readjustment in the event of the vesting of more extensive sovereign powers in United Nations organs and of the removal of the so-called "veto" now provided respecting the Council of the U. N.

¹ See Yearbook of the Court 1947-48, p. 39; also Documents & State Papers, U. S. Dept. of State, June 1948, Vol. 1, No. 3, pp. 192, 207.

² See Table I, note 1.

³ Const., Art. IV, sec. 9.

provisions have been followed by other nations in their national constitutions.

SOURCE OF SOVEREIGN POWER

The articles of the Constitution are introduced by a preamble in which it is stated that the Constitution is ordained and established by the people of the United States.

RIGHTS OF THE PEOPLE AND THE STATES

It is declared in Article I of the Constitution, section 9, that the privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it, and that no bill of attainder or ex post facto law will be passed. Article III contains a provision that the trial of all crimes, except in cases of impeachment, shall be by jury. The first ten amendments, adopted in 1791 and generally known as the Bill of Rights, contain the following guarantees: that the federal Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances;¹ that the right of the people to keep and bear arms shall not be infringed;² that no soldier shall in time of peace be quartered in any house without the consent of the owner;³ that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated;⁴ that no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor be subject for the same offense to be twice put in jeopardy of life or limb; nor be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; and that private property shall not be taken for public use, without just compensation;⁵ that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense;⁶ that in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved;⁷ and that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.⁸

¹ Amendment I.

⁴ Amendment IV.

⁷ Amendment VII.

² Amendment II.

⁵ Amendment V.

⁸ Amendment VIII.

³ Amendment III.

⁶ Amendment VI.

Powers not delegated to the United States by the constitution nor prohibited by it to the States are reserved to the States respectively or to the people.¹

The thirteenth amendment, adopted in 1865, prohibits slavery and involuntary servitude; and the fifteenth amendment adopted in 1870 prohibits the United States and the states from denying or abridging the right of any citizen to vote on account of race, color, or previous condition of servitude.

The fourteenth amendment, adopted in 1868, provides that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; or deprive any person of life, liberty, or property, without due process of law; or deny to any person within its jurisdiction the equal protection of the laws.

The nineteenth amendment, adopted in 1920, provides that the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.

THE LEGISLATIVE DEPARTMENT

The legislative powers granted by the Constitution to the federal government are vested in a bi-cameral Congress.² The members of the House of Representatives are chosen every second year by the people of the several states.³ The number of representatives may not exceed one for every thirty thousand inhabitants;⁴ it is at present approximately one for every three hundred thousand inhabitants. There are two members of the Senate, chosen by popular vote, for each of the forty-eight States of the Union. The Senatorial term is six years, one-third of the membership being renewed every second year.⁵

The House of Representatives chooses its presiding officer, called the Speaker, and its other officers. It has the sole power of impeachment.⁶ The Senate is presided over by the Vice-President of the United States, who has no vote except in case of equal division. The Senate chooses its other officers, including a president *pro tempore* in the absence of the Vice-President, or when he is exercising the office of President of the United States, and it has the sole power to try impeachments.⁷

Bills passed by both houses of Congress must be presented to the President for approval. A bill to which the President objects becomes law, notwithstanding his objections, if it is passed by two-thirds vote of each of the houses.⁸

The powers of the Congress include the levying of taxes, the regulation of interstate and foreign commerce, and the declaration of war.⁹

¹ Amendment X.

² Id., Art. I, sec. 3.

³ Id., Art. I, sec. 7.

⁴ Const., Art. I, sec. 1.

⁵ Id., Art. I, sec. 2.

⁶ Id., Art. I, sec. 8.

⁷ Id., Art. I, sec. 2.

⁸ Id., Art. I, sec. 3.

THE EXECUTIVE DEPARTMENT

The executive power is vested in a President, who holds office for four years and, together with the Vice-President, is chosen by electors who meet in their respective states and vote by ballot.¹ The electors are themselves chosen by popular vote in each state. There are no constitutional restrictions upon the re-election of the President or the Vice-President.

The President is commander in chief of the army and navy. He has power, by and with the advice and consent of the Senate, to make treaties and to appoint ambassadors, Supreme Court judges, and other officers whose appointments are not provided for otherwise.²

JUDICIAL DEPARTMENT

The judicial power is vested in a Supreme Court and in inferior courts established by the Congress.³ It extends to all cases arising under the Constitution, federal laws, and treaties; to all cases affecting ambassadors, other public ministers and consuls; to all admiralty and maritime cases; to controversies to which the United States is a party; to controversies between two or more states or between citizens of different states; and to controversies between citizens of the same state claiming lands under grants of different states.⁴ In cases affecting ambassadors, ministers and consuls and those in which a state is a party, the Supreme Court has original jurisdiction; otherwise its jurisdiction is appellate.⁵

AREA, POPULATION, LANGUAGE

The area of the United States, excluding territories and possessions, is 3,022,387 square miles. The population is estimated at about 145,000,000. The language most generally spoken, and the one employed in official documents, is English.

¹ Const., Art. II, sec. 1.

² Id., Art. II, sec. 2.

³ Id., Art. III, sec. 1.

⁴ Id., Art. III, sec. 2. But see Amendment XI which provides that the judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

⁵ Id. Art. III, sec. 2.

THE CONSTITUTION of the UNITED STATES OF AMERICA

Signed September 17, 1787;
effective June 21, 1788

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

Article I

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

[Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other persons.]¹ The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

¹ See Amendments XIII, XIV, and XVI.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof,¹ for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one-third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of Chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December,² unless they shall by Law appoint a different Day.

Section 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment

¹ See Amendment XVII.

² See Amendment XX.

require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels

bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office or Title, of any kind whatever, from any King, Prince, or foreign State.

Section 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article II

Section 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice-President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

[The Electors shall meet in their respective States, and vote by Ballot for two persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes

shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two-thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.¹

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and he shall have Power to Grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

¹ See Amendment XII.

Section 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article III

Section 1. The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.

Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;¹—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.¹

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

¹ See Amendment XI.

Article IV

Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Article V

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article VI

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the

Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article VII

The Ratification of the Conventions of nine States shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

*Article I*¹

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

*Article II*¹

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

*Article III*¹

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

*Article IV*¹

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

*Article V*¹

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

¹ Adoption certified December 15, 1791.

*Article VI*¹

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

*Article VII*¹

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

*Article VIII*¹

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

*Article IX*¹

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

*Article X*¹

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

*Article XI*²

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

*Article XII*³

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number

¹ Adoption certified December 15, 1791.

² Adopted February 7, 1795; see Press Release, Dept. of State XII, 247, of April 15, 1935. Declared ratified January 8, 1798.

³ Adopted September 25, 1804. Supplemented by Amendment XX.

of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

*Article XIII*¹

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

*Article XIV*²

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously

¹ Adopted December 9, 1865; declared ratified on December 18, 1865.

² Adopted July 21, 1868; declared ratified on July 28, 1868.

taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Article XV¹

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Article XVI²

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Article XVII³

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Article XVIII⁴

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all

¹ Adopted February 19, 1870; declared ratified on March 30, 1870.

² Adopted February 3, 1913; declared ratified on February 25, 1913.

³ Adopted May 9, 1913; declared ratified on May 31, 1913.

⁴ Declared ratified on January 29, 1919; repealed by Amendment XXI on December 5, 1933.

territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Article XIX¹

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

Article XX²

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

Article XXI³

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

¹ Adopted August 24, 1920; declared ratified on August 26, 1920.

² Adopted January 24, 1933; declared ratified on February 6, 1933.

³ Adopted and declared ratified December 5, 1933.

Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

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URUGUAY

SUMMARY

INTERNATIONAL STATUS

Uruguay is a member of the United Nations. It signed the Charter at San Francisco on June 26, 1945, and ratified it November 2, 1945. It also signed the United Nations Declaration of January 1, 1942.

It was a member of the League of Nations. It signed and ratified the Statute of the Permanent Court of International Justice and accepted the optional clause. It is subject to the compulsory jurisdiction of the International Court of Justice under Article 36 of its Statute.¹ It is a mem-

¹ See yearbook of the Court 1947-48, p. 39; also Documents & State Papers, Dept. of State, June 1948, Vol. 1, No. 1, pp. 192, 207.

ber of the Organization of the American States, the Postal Union, and various other international organizations.¹ It severed relations with the Axis Powers in January, 1942, and declared war on Germany and Japan on February 15, 1945.

The present Constitution of Uruguay was promulgated on May 18, 1934, and was substantially amended by plebiscites of March 27, 1938, and November 29, 1942.

The province of Montevideo was not connected with the independence movement of the revolutionary committee of Buenos Aires in 1810, and in 1811 the latter sent General Artigas to lay siege to Montevideo. Hostilities continued until 1814, at which time the city capitulated. In 1817 Uruguay was incorporated into Brazil. In 1825 there was a revolt and declaration of independence by Uruguay. This resulted in war between Argentina and Brazil. Three years later, by means of British mediation, a treaty was signed guaranteeing Uruguayan independence.

During the twenty years after the adoption of the first Constitution in 1830, Uruguay was torn by the struggle between the "Whites" and the "Reds," a struggle that was complicated by the efforts of Rosas, Argentina's ruler, to annex the small country to his own. Between 1838 and 1851 there was war between the two countries which would probably have resulted in the incorporation of Uruguay into Argentina had not Brazilian intervention provoked the downfall of Rosas.

FORM OF NATIONAL GOVERNMENT

The Constitution of March 24, 1934, states that the government is democratic-republican,² that it "always shall be free and independent of any sovereign power,"³ and that "it will never be the patrimony of any person or of any family."⁴

This Constitution was preceded by that of 1830, which was only nominally effective during most of its existence, and by the Constitution of 1918.

SOURCE OF SOVEREIGN POWER

Sovereignty "resides fundamentally in the Nation" of which every citizen is a member.⁵

RIGHTS OF THE PEOPLE

The Constitution guarantees enjoyment of life, honor, liberty, security, labor, and property;⁶ equality before the law,⁷ inviolability of the home,⁸

¹ See Table I.

⁴ *Id.*, Art. 3.

⁷ *Id.*, Art. 8.

² Const., Art. 72.

⁵ *Id.*, Arts. 4, 68.

⁸ *Id.*, Art. 11.

³ *Id.*, Art. 2.

⁶ *Id.*, Art. 7.

prohibition of imprisonment except by law,¹ prohibition of the death penalty,² inviolability of correspondence,³ freedom of speech and the press,⁴ the right of petition,⁵ inviolability of the right of property,⁶ protection of intellectual property,⁷ freedom of occupation,⁸ freedom of entry into, departure from, and residence in the country,⁹ and the right of assembly and association.¹⁰

There are sections dealing with protection of the family, including protection of children, maternity, and the promotion of public health and hygiene,¹¹ also with the protection of labor including protection of women and minors, the right to just remuneration, certain hours, holidays, and hygienic conditions, the right to trade unions, pensions, and social insurance.¹² Education is free and primary education is compulsory.¹³

LEGISLATIVE DEPARTMENT

Legislative power is exercised by the General Assembly composed of the House of Representatives and the Senate.¹⁴ The former has ninety-nine members elected directly by the people for a term of four years.¹⁵ The Senate consists of thirty members, elected directly by the people for a term of four years, from a single electoral list, in addition to the Vice-President of the Republic, who presides over the Senate and has a vote therein.¹⁶ Election of both Representatives and Senators is according to the system of proportional representation.¹⁷ Provision is made for a permanent commission composed of four senators and seven representatives.¹⁸

EXECUTIVE DEPARTMENT

Executive power is vested in the President, who functions with a council of ministers.¹⁹ The President and Vice-President are elected directly by universal suffrage for a term of four years and may be re-elected only four years after the expiration of their term.²⁰ Provision is made for a council of nine ministers who are chosen by the President on the basis of their ability to obtain parliamentary support; the President may, in any event, appoint four ministers of the party which elected him.²¹ The ministers are responsible to the General Assembly, which may require the resignation of some or all.²² If the Assembly's disapproval of one or more of the ministers is by a vote of less than two-thirds of its total membership, the President may veto the disapproval; and if the

¹ Const., Arts. 12, 15.

⁴ Id., Art. 28.

⁷ Id., Art. 32.

¹⁰ Id., Arts. 37, 38.

¹² Id., Arts. 59, 61.

¹³ Id., Arts. 85, 88.

¹⁹ Id., Art. 145.

²² Id., Arts. 136-139.

² Id., Art. 25.

⁵ Id., Art. 29.

⁸ Id., Art. 35.

¹¹ Id., Arts. 39-48.

¹⁴ Id., Arts. 73, 74.

¹⁷ Id., Arts. 78, 86, 87.

²⁰ Id., Arts. 148, 149.

³ Id., Art. 27.

⁶ Id., Art. 31.

⁹ Id., Art. 36.

¹² Id., Arts. 52-58.

¹⁵ Id., Arts. 78, 80.

¹⁸ Id., Art. 116.

²¹ Id., Arts. 161, 162.

disapproval is reaffirmed by a vote of less than three-fifths of the total membership, the President may dissolve the chambers and call for new elections.¹

JUDICIAL DEPARTMENT

Provision is made for a Supreme Court composed of five members, appointed by the General Assembly for a period of ten years.² It may declare laws unconstitutional.³

AREA, POPULATION, LANGUAGE

Uruguay has an area of 72,153 square miles and a population of about 2,150,000. The prevailing language is Spanish.

¹ Const., Art. 140.

² Id., Arts. 206, 209, 210.

³ Id., Art. 229.

CONSTITUTION of the ORIENTAL REPUBLIC OF URUGUAY¹

Approved by the National Constituent Assembly
on March 24, 1934, with Amendments ratified by
Plebiscite on November 29, 1942

SECTION I

THE NATION AND ITS SOVEREIGNTY

Chapter I

Art. 1. The Oriental Republic of Uruguay is the political association of all of the inhabitants included within its territory.

Art. 2. It is and always shall be free and independent of any foreign power.

Art. 3. It will never be the patrimony of any person or of any family.

Chapter II

Art. 4. The sovereignty to its full extent resides fundamentally in the Nation, which has the sole authority to establish its laws in the manner which will be hereinafter set forth.

Chapter III

Art. 5. All religious sects are free in Uruguay. The State has no official religion whatever. It recognizes the right of the Catholic Church to the dominion of all of the temples which have been built wholly or partly from funds of the national public treasury, with the sole exception of the chapels dedicated for use as asylums, hospitals, prisons, or other public establishments. It likewise declares exempted from all manner of taxes the temples dedicated to the various religious sects.

Chapter IV

Art. 6. In the international treaties which the Republic may conclude there will be proposed clauses to the effect that all differences which may arise between the contracting parties will be adjusted by arbitration or other pacific means.

¹ Translation of the 1934 Constitution received from the United States Embassy in Montevideo; amendments translated from the official edition of 1942.

SECTION II

Chapter I

Rights, Duties, and Guarantees

Art. 7. The inhabitants of the Republic have the right of protection in the enjoyment of life, honor, liberty, security, labor, and property. No one may be deprived of these rights except in conformity with the laws which may be established for reasons of general interest.

Art. 8. All persons are equal before the law, no other distinctions being recognized among them save those of talent or virtue.

Art. 9. The establishment of primogenital entailments is prohibited. No authority of the Republic may grant any title of nobility nor hereditary honor or distinction.

Art. 10. Private actions of persons which do not in any way affect the public order or prejudice a third party shall be outside the jurisdiction of the magistrates.

No inhabitant of the Republic shall be obliged to do what the law does not require or prevented from doing what it does not prohibit.

Art. 11. The sanctity of the home is inviolable. No one may enter it by night without the consent of its master and by day only at the express order of the competent judge in writing and in cases determined by law.

Art. 12. No one may be punished or imprisoned without due process of law.

Art. 13. Common law may establish trial by jury in criminal cases.

Art. 14. The penalty of confiscation of property may not be imposed for reasons of a political character.

Art. 15. No one may be imprisoned except in case of flagrante delicto or by written order of the competent judge based on sufficient proof.

Art. 16. In any of the cases mentioned in the preceding Article the judge, under the gravest responsibility, will take the declaration of the prisoner within twenty-four hours and will begin the summary process within forty-eight hours at the most. The declaration of the accused must be taken in the presence of his defender. The latter will likewise have the right to attend all the summary hearings.

Art. 17. In case of false imprisonment, the interested party or any other person may apply to the competent judge for a writ of habeas corpus to the end that the authority which made the arrest shall immediately explain and justify the legal grounds for the arrest, the decision of the above-mentioned judge being final.

Art. 18. The laws will establish the procedure and formalities of trials.

Art. 19. Trials by commission are prohibited.

Art. 20. The taking of the oath of the accused in making declarations or confessions regarding their own acts is abolished; and it is prohibited that the accused be treated as criminals.

Art. 21. Criminal judgments by default are likewise abolished. The law will make suitable provision to this effect.

Art. 22. All criminal trials will begin with an accusation *ex parte* or by the public prosecutor, secret examinations being abolished.

Art. 23. All judges are responsible before the law for the smallest infringement of the rights of individuals as well as for deviation from the established order of procedure in that respect.

Art. 24. Any functionary will be civilly responsible, who, in the exercise of the public office with which he has been entrusted, and by the non-performance of the duties which his position requires, causes prejudice to a third party.

The State, the municipalities, the autonomous bodies or decentralized services, or the public agency to which the functionary in question belongs will be subsidiary respondents, will be necessary parties in actions which may result in this respect, and will have the right to reclaim from him what they may have paid in case of an adverse judgment.

Art. 25. The death penalty will not be applied to anyone.

In no case will the prisons be permitted to brutalize the prisoners; they will be used only as a means of insuring that the culprits pursue their re-education, acquire an aptitude for work, and cure the moral deficiency which caused the crime.

Art. 26. In any stage of a criminal trial which has not resulted in a penitentiary sentence, the judges may place the accused at liberty, and he will give bond according to law.

Art. 27. The papers of private individuals, their correspondence, whether epistolary, telegraphic, or of any other nature, are inviolable and may never be searched, examined, or inspected, except in conformity with the laws which may be established for reasons of public interest.

Art. 28. The expression of opinion on any subject by word of mouth, private writing, through the press, or by any other method of dissemination is entirely free, previous censorship being unnecessary; the author and, upon occasion, the printer or publisher being, however, responsible, in accordance with law, for the abuses which they may commit.

Art. 29. Any inhabitant has the right to make a petition to all or to any of the authorities of the Republic.

Art. 30. Individual security may not be suspended except with the consent of the General Assembly or, in its recess, of the permanent commission, and on account of an extraordinary case of treason or conspiracy against the country; and then the said suspension will be used only for the apprehension of the guilty parties without prejudice to the provisions of subsection 18 of Article 157.

Art. 31. The right of property is inviolable, but is subject to the provisions of the laws which may be established for reasons of public interest.

No one may be deprived of his right to property except in case of public necessity or utility established by law, and in such cases the national treasury will always pay a just compensation in advance.

When expropriation is ordered for reasons of public necessity or utility, the proprietors will be indemnified for the damages and prejudices which they may suffer on account of the delay, whether the expropriation is actually carried out or not.

Art. 32. Intellectual property, the rights of authors, inventors, or artists will be recognized and protected by the law.

Art. 33. All the artistic or historical wealth of the country, whoever may be its owner, constitutes the cultural treasure of the Nation; it will be placed under the protection of the State and the law will establish what is considered necessary for its defense.

Art. 34. No one will be obliged to render aid of any kind to the army, or to permit his house to be used for the billeting of troops, except under the order of a civil magistrate according to law, and in such cases he will

receive from the Republic indemnification for the losses which he may suffer.

Art. 35. Any person may devote himself to labor, farming, industry, commerce, professional, or any other legitimate activity, save for the limitations imposed by public interest which the laws may establish.

Art. 36. The entry of any person into the territory of the Republic, his residence therein, and his departure with his property is free, provided that the laws are observed and except in cases of prejudice to third parties.

Immigration must be regulated by law, but in no case will an immigrant be admitted who has physical, mental, or moral defects which may injure society.

Art. 37. The right of pacific and unarmed public meetings is guaranteed. The exercise of this right may not be denied by any authority of the Republic except in accordance with law, and only in so far as it may prejudice public health, security, and order.

Art. 38. All persons have the right to form associations for whatever object, provided that they do not form an association which the law declares to be illicit.

Chapter II

Art. 39. The State will foster the social protection of the family.

Art. 40. The care and education of children, so that they may attain their fullest physical, intellectual, and social capacity, is the duty and the right of parents. Those who have large families are entitled to compensatory aid if they need it.

The law will take the necessary measures in order that infancy and youth may be protected against physical, intellectual, or moral neglect by their parents or guardians, as well as against exploitation and abuse.

Art. 41. Parents have the same duties toward children born outside of wedlock as toward children born within it.

Maternity, whatever may be the condition or circumstances of the mother, has a right to the protection of society and its assistance in case of destitution.

Art. 42. The law will provide that cases of delinquency of minors will be dealt with under a special system in which women will be allowed to participate.

Art. 43. The State shall legislate on all questions connected with public health and hygiene, endeavoring to attain the physical, moral, and social improvement of all the inhabitants of the country.

It is the duty of all the inhabitants to take care of their health as well as to receive treatment in case of illness. The State will provide gratis the means of prevention and treatment to indigent persons or those lacking sufficient means.

Art. 44. The law will encourage the hygienic and economical housing of the laborer, favoring the construction of lodgings and districts which unite these conditions.

Art. 45. The State will give asylum to indigent persons or those lacking sufficient means who, on account of physical or mental inferiority of a chronic nature, may be incapacitated for work.

Art. 46. The State will combat social vices by means of the law and international conventions.

Art. 47. The right of inheritance is guaranteed within the limits established by law. Lineal ascendants and descendants will have preferential treatment in the laws regarding taxation.

Art. 48. The "family property," its constitution, conservation, enjoyment, and transmission will be the object of special protective legislation.

Art. 49. Every commercial or industrial corporation in the form of a trust will be subject to inspection by the State.

Art. 50. The establishment and collection of the tariffs for public services operated by firms holding concessions will be conditional on their confirmation by the State or by the municipalities, in appropriate cases.

The concessions to which this article refers may in no case be granted in perpetuity.

Art. 51. Usury is prohibited. The law fixing a maximum limit on the interest on loans is of a public character. This law will provide for the punishment to be applied to offenders thereunder.

No one may be deprived of his liberty for debts.

Art. 52. Labor is under the special protection of the law.

It is the duty of every inhabitant of the Republic, without prejudice to his liberty, to use his intellectual or physical energies in a manner which will redound to the benefit of the community, which will attempt to afford him, with preference to citizens, the possibility of earning his living by the development of an economic activity.

Art. 53. The law must recognize the right of every laborer or employee to independence of moral and civic conscience; just remuneration; the limitation of the working day; a weekly holiday; and physical and moral hygiene.

The labor of women and of minors under eighteen years of age will be specially regulated and limited.

Art. 54. The law will regulate the impartial and equitable distribution of labor.

Art. 55. All concerns, the character of which requires that the personnel live on the premises, will be obliged to provide adequate food and lodging in accordance with conditions which the law will establish.

Art. 56. The law will promote the organization of trade unions, according them charters and providing regulations for their recognition as juristic persons.

It will likewise promote the creation of tribunals of conciliation and arbitration.

The strike is declared to be a right of trade. Regulations will be made, governing its exercise and effect, on that basis.

Art. 57. Public functionaries are in the service of the nation and not of a political party. Political proselytism on their part, at their offices or during office hours, will be considered illegal and will therefore be suppressed by the law.

The law will establish civil service regulations on the fundamental basis that the official exists for the office and the office does not exist for the official.

These regulations will especially determine the conditions for entry into the public service; the rules governing promotion; the guarantees with regard to permanency, separation from the service, suspension, or transference; the duties of the officials and their means of recourse against resolutions which affect them.

No parliamentary or administrative investigation of irregularities, omissions, or malfeasance will be considered as completed until the accused has had the opportunity to submit his answer and to present his defense.

These regulations should be established within two years after the promulgation of this Constitution.

Art. 58. The general pension and social insurance funds will be organized in such a way as to guarantee to all workers, employers, employees, and laborers adequate retirement pensions and subsidies in case of accident, sickness, incapacity, enforced unemployment, etc., and to their families the corresponding pension in case of death.

The old age pension is the right of those who have reached the limit of their productive age after a long residence in the country and who lack the means to provide for the necessities of life.

Art. 59. Freedom of education is guaranteed.

The law will regulate state intervention for the sole purpose of maintaining hygiene, morality, security, and public order.

Every parent or guardian has the right to select the masters or institutions he desires for the instruction of his children or wards.

Art. 60. Private educational institutions which give free classes to a number of students, in accordance with regulations which the law will determine, and cultural institutions will be exempted from national and municipal taxes as a subsidy for their services.

Art. 61. Primary education is compulsory.

The State will make the necessary provisions for its accomplishment.

Art. 62. Free official primary, intermediary, advanced, industrial, artistic, and physical education is declared to be of social value, as well as the creation of scholarships for continued study and specialization in the cultural, scientific, and industrial fields, and the establishment of public libraries.

Special attention will be paid to the formation of the moral and civic character of the pupils in all educational institutions.

Chapter III

Art. 63. The enumeration of the rights, duties, and guarantees made in this Constitution does not exclude the others which are inherent in human beings or are derived from the republican form of government.

SECTION III

CITIZENSHIP AND ITS RIGHTS: MANNER OF ITS SUSPENSION AND LOSS

Chapter I

Art. 64. The citizens of the Oriental Republic of Uruguay are natural or legal.

Art. 65. All men and women born in any place within the territory of the Republic are natural citizens. Children of Uruguayan fathers or mothers are also natural citizens, wherever they may have been born, provided that they take up their residence in the country and register themselves in the civil register.

Art. 66. The following have the right to legal citizenship:

A. Foreign married men and women of good conduct, who possess some capital in cash or property in the country, or are engaged in some scientific,

artistic, or industrial profession, and have resided habitually in the Republic for three years.

B. Foreign men and women of good conduct, unmarried or married with wives or husbands not residing in the Republic, who fulfill any of the requirements in the preceding subsection and have habitually resided in the country for five years.

C. Foreign men and women who obtain special permission from the Assembly on account of notable service or appropriate merits.

The proof of residence must be founded on a public or private document of proven date.

The rights appertaining to legal citizenship may not be exercised by foreigners included in subsections A and B until three years after the issuance of the respective citizenship papers.

The existence of any of the causes for suspension referred to in Article 70 will prevent the issuance of citizenship papers.

Art. 67. Foreign married men and women of good conduct who possess some capital in cash or property in the country or are engaged in any scientific, artistic, or industrial profession and have habitually resided for at least fifteen years in the Republic have the right to vote without the necessity of previously obtaining legal citizenship.

The proof of residence must be based on a public or private document of proven date, and if the evidence is satisfactory to the authority competent to pass on it, the foreigner will be entitled to exercise the vote from the time of his inscription in the civil registry, which will be authorized to register him as a voter and issue him the necessary permit.

Chapter II

Art. 68. Every citizen is a member of the sovereignty of the Nation; as such he is an elector and eligible for election in the cases and in accordance with the procedure which will be set forth.

Suffrage will be exercised in the form which may be determined by law, but on the following bases:

- (1) Obligatory inscription in the civil registry.
- (2) Secret and obligatory vote.
- (3) Proportional integral representation.
- (4) Judicial magistrates, members of the tribunal of administrative conflicts, members of the tribunal of accounts, directors of the autonomous bodies and decentralized services, soldiers in active service of whatever rank, and police officials of whatever category must abstain, under penalty of dismissal and withdrawal of eligibility to hold any other public office for from two to ten years, from active membership in political commissions or clubs, from signing party proclamations, and, in general, from any other public or private act of a political character with the exception of voting.

The electoral court will be competent to take cognizance of and impose penalties for the above-mentioned electoral misdemeanors. The accusation should be made before the electoral court through the intermediary of the national party authorities.

Without prejudice to the above provisions, the antecedents of all such cases will be passed on by the ordinary courts in so far as they may give rise to other accusations.

(5) The President of the Republic and the members of the electoral court may not be active members of political commissions or clubs or take part in party directive organizations or participate in any form in political propaganda of an electoral nature. The same provision includes mayors, who are subject

to the penalties provided in paragraph 4 under the conditions mentioned therein.

(6) All corporations of an elective character which may be designated to intervene in questions of suffrage must be elected with the guarantees provided in this article.

(7) Any new law with regard to civil registry or elections, as well as any modification or interpretation of the existing laws, will require a two-thirds majority vote of the members of each chamber. This special majority will apply only to the guarantees of the suffrage and election, composition, functions and procedure of the electoral court and the electoral boards. For action in matters of expenditures, budgets, and internal order of the same, a simple majority will be sufficient.

(8) The law may extend the prohibition contained in paragraphs 4 and 5 to include other authorities by a two-thirds majority vote of the members of each chamber.

Art. 69. Any citizen may be called to public service. A legal citizen may not be designated until three years after he has been granted citizenship papers.

Chapter III

Art. 70. Citizenship is suspended:

(1) By physical or mental ineptitude which prohibits free and rational work;

(2) By having the status of a soldier of the line, whether classified as a musician, a cornet player, a bugler, a drummer, a marksman, or in any other classification of a grade lower than that of corporal, with the exception of cadets of the military academy;

(3) By being under indictment on a criminal charge which may result in a penitentiary sentence;

(4) By being under eighteen years of age;

(5) By being under a sentence which imposes the penalty of deportation, prison, penitentiary, or loss of political rights during the term of the sentence;

(6) By the habitual practice of morally dishonest activities which will be determined by law in accordance with subsection 7 of Article 68;

(7) By being a member of social or political organizations which tend to destroy by violence the fundamental basis of the Nation. Those mentioned in Sections I and II of this Constitution are considered to be such for the purpose of this provision;

(8) By the failure to meet any of the requirements provided in Article 66 for the granting of legal citizenship.

The last two reasons apply only to legal citizens.

Chapter IV

Art. 71. Nationality is not lost even by naturalization in another country, it being sufficient for the purpose of regaining the rights of citizenship merely to take up residence in the Republic and register in the civil register.

Legal citizenship is lost by any other form of subsequent naturalization.

SECTION IV

THE FORM OF GOVERNMENT AND ITS VARIOUS POWERS

Chapter I

Art. 72. The Nation adopts the democratic-republican form of government.

Its sovereignty will be exercised directly by the electoral body through election, initiative, and referendum and indirectly by the representative powers which this Constitution establishes; all in conformity with the regulations herein set forth.

SECTION V

THE LEGISLATIVE POWER

Chapter I

Art. 73. The legislative power will be exercised by the General Assembly.

Art. 74. The latter will be composed of two chambers; one of representatives and the other of senators, which will function separately or together according to the various provisions of this Constitution.

Art. 75. The General Assembly is competent:

- (1) To establish and publish the codes;
- (2) To set up the tribunals and regulate the administration of justice;
- (3) To make laws relative to the independence, security, tranquility, and decorum of the Republic; the protection of all individual rights and the fostering of education, agriculture, industry, and internal and foreign trade;
- (4) To provide for the necessary contributions to meet budgetary expenses, for their distribution, the manner of their collection and use, and to suppress, modify, or increase those in existence;
- (5) To approve or disapprove in whole or in part, the accounts presented by the executive power;
- (6) To authorize, on the initiative of the executive power, the national public debt, to consolidate it, to provide for its guarantees, and to regulate the public credit, the absolute majority of the members of each chamber being necessary in the three first mentioned cases;
- (7) To declare war and to approve or disapprove, by absolute majority of all members of both chambers, the treaties of peace, alliance, commerce and conventions or contracts of any nature which the executive power may make with foreign powers;
- (8) To designate annually the armed force necessary; military effectives may be increased only by the absolute majority of the members of each chamber;
- (9) To create new departments by a two-thirds majority vote of the members of each of the chambers; to establish their respective jurisdictions; to establish ports; to establish custom houses and export and import duties, applying with regard to these last items the provisions contained in Article 77;
- (10) To establish the weight, standard, and value of monies; to fix the pattern and denomination of the same and to make regulations regarding systems of weights and measures;
- (11) To permit or to prohibit the entry of foreign troops into the territory of the Republic and, in the former case, to determine the time at which they must depart; excepted from the above are the forces which enter for the sole purpose of doing honor and whose entry shall be authorized by the executive power;
- (12) To refuse or to permit the expedition of national forces outside of the Republic, establishing in the latter case the time of their return to the country;
- (13) To create or to suppress public offices, determining their functions, compensations, and retirement regulations, and to approve, disapprove, or decrease the budgets of expenditures presented by the executive power; to grant pensions and other classes of pecuniary compensation and to decree public honors as a reward for exceptional services;

(14) To grant pardons by two-thirds vote of the General Assembly and to accord amnesties in extraordinary cases by absolute majority vote of the members of both chambers;

(15) To issue regulations with regard to the militia and to fix their number and designate the times when they shall be called to service;

(16) To select the place where the principal authorities of the Nation must reside;

(17) To grant monopolies by a two-thirds majority vote of the members of each of the chambers;

To institute monopolies in favor of the State or the municipalities, an absolute majority vote of the members of each chamber shall be required.

(18) To elect, in a joint meeting of both chambers and by a majority of those present, the ministers of the Supreme Court of Justice and the members of the Tribunals of accounts and of administrative conflicts;

(19) To pass political judgment on the conduct of the ministers of state, in accordance with the provisions of Section VIII;

(20) To interpret the Constitution, without prejudice to the authority of the Supreme Court of Justice under Articles 229 to 232.

Art. 76. The creation and suppression of public offices and services, the establishment and modification of salaries, as well as the authorization for expenses, will ordinarily be effected through the general budget under the provisions established in Section XII.

Any other law which involves expenses to be borne by the national treasury must indicate the revenues from which they shall be paid; but the initiative in the creation of offices, the increase of salaries or retirement pensions, the granting or increasing of pensions or pecuniary compensations will be vested solely in the executive power.

Art. 77. The affirmative vote of the absolute majority of the members of each chamber shall be necessary to authorize taxes.

Chapter II

Art. 78. The House of Representatives shall be composed of ninety-nine members, elected directly by the people under a system of proportional representation in which shall be taken into account the votes cast in favor of each party throughout the country.

Each department will have at least two representatives.

The number of representatives may be modified by law, a two-thirds majority vote of the members of each chamber being necessary for that purpose.

Art. 79. Throughout the territory of the Republic, the ordinary elections for representatives shall take place on the last Sunday of the month of November.

Art. 80. The representatives shall remain in office for four years and their election shall coincide with that of the President of the Republic, senators, mayors, and departmental councils, without prejudice to the provisions of Article 140.

Art. 81. To be a representative it is necessary to be a natural citizen, exercising the rights and duties of citizenship, or a legal citizen who has exercised the rights and duties of citizenship for five years, and in both cases to be more than twenty-five years of age.

Art. 82. The following may not be representatives:

(1) Members of the judicial power, the tribunals of account and of administrative conflicts, mayors, members of departmental councils, members of the

electoral court, and of the councils or boards of directors of the autonomous bodies;

(2) Military employees or civil employees in the salaried service of the legislative, executive, or judicial power, the electoral court, the tribunals of accounts and of administrative conflicts, the municipalities and the autonomous bodies, with the exception of those who have been retired or pensioned.

This provision does not apply to those who hold university positions as instructors or technical positions on university staffs which include teaching. If the elected person wishes to continue to occupy such positions, he may do so without salary during his term of office. Military persons who resign their commissions and salaries to enter the legislative body shall retain their rank, but during their legislative functions they may not be promoted, they will be exempt from all military subordination, and the time during which they are engaged in legislative functions shall not count toward their seniority for purposes of promotion.

Art. 83. The President of the Republic, the mayors, chiefs of police, judges, and state attorneys in the departments in which they hold office, and officers in the locality in which they command military forces or exercise any military function, may not be candidates for representative unless they resign three months prior to the election.

Art. 84. The House of Representatives has the exclusive right of accusing the President of the Republic and the ministers of state, the members of both chambers, of the Supreme Court of Justice and of the tribunal of administrative conflicts before the Senate for the offenses of treason, extortion, malversation of public funds, violation of the Constitution, or other grave offenses, after having taken cognizance of the matter upon a petition, *ex parte* or of one of its members, and decided that there are grounds for prosecution.

Chapter III

Art. 85. The Senate shall be composed of thirty members elected directly by the people by means of a single electoral list, in accordance with the guarantees with regard to suffrage established in Section III and in conformity with the provisions of the following articles.

The Vice-President of the Republic shall sit in the Senate, with voice and vote, and shall act as president thereof.

Art. 86. The thirty senators shall be elected by the system of integral proportional representation.

Art. 87. The distribution of the senatorial seats obtained by different groups in the same party shall also be made in proportion to the number of votes cast in favor of the respective lists.

Art. 88. The senators shall have a term of office of four years and their election shall conform to the provisions contained in Articles 79 and 80.

Art. 89. To be a senator it is necessary to be a natural citizen exercising the rights and duties of citizenship, or a legal citizen who has exercised the rights and duties of a citizen for seven years, and in both cases to be over thirty years of age.

Art. 90. The exclusive qualifications applying to representatives in accordance with Articles 82 and 83 shall apply also to senators.

Art. 91. A citizen who has been elected both as a senator and as a representative may choose which of the two offices he prefers.

Art. 92. The Senate is competent to initiate the public trial of those accused by the House of Representatives and to pronounce sentence with the concurrence of at least two-thirds of the votes cast, and that sentence may have the sole effect of removal from office.

Art. 93. The party tried and convicted shall nevertheless be subject to accusation, trial, and punishment in accordance with the law.

SECTION VI

THE SESSIONS OF THE GENERAL ASSEMBLY—PROVISIONS COMMON TO BOTH CHAMBERS—THE PERMANENT COMMISSION

Chapter I

Art. 94. The General Assembly shall begin its sessions on the fifteenth of March of each year and shall hold sessions until the fifteenth of December, or only until the fifteenth of October in the event that there are elections of legislators, and the new Assembly must in that event begin its sessions on the fifteenth of the following February.

The Assembly shall meet on the dates indicated, without the necessity of special convocation by the executive power, and its sessions and those of the Senate, until the Vice-President of the Republic takes office, shall be presided over by the first senator on the list receiving the most votes of the party receiving the most votes.

Only for grave and urgent reasons may the General Assembly, or either of its chambers, or the executive power terminate the recess, and then for the exclusive purpose of dealing with the questions which have given rise to the convocation.

Chapter II

Art. 95. Each chamber shall be the exclusive judge of the qualifications of its members for election.

The chambers shall be governed internally by the regulations which each one may make for itself and, when they meet jointly, by the rules of the General Assembly.

Art. 96. The granting of pensions will be decided by secret vote.

The rules of each chamber and of the General Assembly may extend this requirement to cover cases of pardons and appointments.

Art. 97. Each chamber shall appoint its president and vice-president and secretaries, with the exception of the president of the Senate, the provisions of Articles 85, last part, 94, and 147 being applicable.

Art. 98. In case of the temporary or permanent vacancy of the presidency of the Senate, that office shall be held by the first vice-president of that body, who shall also occupy the presidency of the General Assembly.

In such a case the membership of the Senate shall include the first titular candidate not elected on the list who received the greatest number of votes of the party which elected the Vice-President of the Republic, following the order of preference of his place on the said list.

In case the party which elected the Vice-President of the Republic has no representation in the Senate, there shall be called the first titular candidate not elected on the list who, appearing on the same ballot as the Vice-President of the Republic, may have received the greatest number

of votes of the party which obtained the greatest number of votes in the election of Senators, following the preferential order of his place on that list.

Art. 99. Each chamber will appoint its secretaries and personnel and will fix its annual expenditures by absolute majority of the votes of all its members and will so advise the executive power, to the end that he may include it in the general budget.

Art. 100. Neither of the chambers may open its session until more than half of its members are present, and if such is not the case on the day designated by the Constitution, the minority may meet for the purpose of compelling the absent members to attend under penalties which they may prescribe.

Art. 101. The chambers shall communicate in writing between themselves and the other public powers through their respective presidents and with the authorization of a secretary.

Art. 102. The senators and representatives shall never be responsible for the votes they cast and the opinions they express during the discharge of their duties.

Art. 103. No senator or representative from the day of his election until that of his retirement may be arrested except in case of *flagrante delicto*, and then notice shall immediately be given to the respective chamber with a summary report of the case.

Art. 104. No senator or representative from the day of his election until the day of his retirement may be accused on a criminal charge, or even for common offenses which are not among those detailed in Article 84, except before his own chamber, which by two-thirds of the votes of its members will decide whether or not there are grounds for prosecution and, if so, shall declare him suspended in the exercise of his office, and he shall be placed at the disposition of the competent tribunal.

Art. 105. Each chamber may likewise reprimand any of its members for disorderly conduct in the discharge of his duties and may even suspend a member by the vote of two-thirds of its members.

By the same number of votes it may remove a member for physical or mental incapacity which developed after he took office.

A simple majority of those present will be sufficient to accept voluntary resignations.

Art. 106. Any legislator may request of the ministers of state, the Supreme Court of Justice, the electoral court, and the tribunals of accounts and of administrative conflicts the data and information which he considers necessary for the discharge of his duties. The request shall be made in writing through the president of the respective chamber, who will transmit it immediately to the appropriate body. If the latter does not supply the information within the period which will be fixed by law, the legislator may require it through the intermediary of the chamber to which he belongs, which will make a final decision in the case.

Matters connected with the jurisdictional business and competence of the judicial power and of the tribunal of administrative conflicts may not be the object of the above-mentioned request.

Art. 107. Each of the chambers has the right, by a resolution of one-third of its members, to require the presence on its floor of the ministers of state in order to question them and receive from them information which it considers important, whether for legislative purposes or for

purposes of inspection or fiscalization, without prejudice to the provisions of Section VIII.

When the information refers to autonomous bodies or decentralized services, the ministers may require the simultaneous attendance of a representative of the appropriate council or board of directors.

Art. 108. The chambers may appoint parliamentary commissions of investigation or for obtaining data for legislative purposes.

Art. 109. In the cases contemplated in the three preceding Articles, either of the chambers may make statements without prejudice to the provisions of Section VIII.

Art. 110. Senators and representatives, after they have taken their seats in their respective chambers, may not hold positions of gain under the State, the municipalities, the autonomous bodies or any other public body, nor may they render paid services to them in any matter without the consent of the chamber to which they belong, and in all such cases their seats will be considered as vacated by the act of accepting such a position or rendering such service.

This provision does not apply to the senators and representatives who may be called to serve as ministers or under-secretaries of state. In this case their legislative functions will be suspended and during that suspension the respective alternates will be substituted for them.

Art. 111. The legislative function is likewise incompatible with the exercise of any other public elective office whatever may be its nature.

Art. 112. Senators and representatives are likewise prohibited during their term of office from:

(1) Participating as directors, administrators or employees in companies under contract for works or services with the State, the municipalities, the autonomous bodies, or any other public body;

(2) Carrying on or directing negotiations on behalf of third parties before the central administration, the municipalities, or the autonomous bodies.

The non-observance of the provisions of this Article will entail immediate loss of the legislative office.

Art. 113. The prohibition provided in the first paragraph of Article 110 will apply to senators and representatives until one year after the end of their term of office, except by the express authorization of the respective chamber.

Art. 114. The vacancies which may occur for any reason in each chamber will be filled by the alternates designated at the time of the elections in a manner to be provided by law, without the holding of a new election.

The law may also authorize the summons of alternates for temporary incapacity or leave of absence of titular legislators.

Art. 115. Senators and representatives will be compensated for their services by a monthly salary which they will receive during their term of office and which will be fixed by a two-thirds majority vote of the Assembly by special resolution in the last period of each legislature to affect the members of the following legislature. This compensation will be paid them with absolute independence of the executive power.

Chapter III

Art. 116. There will be a permanent commission composed of four senators and seven representatives elected by the proportional system

and designated by their respective chambers. The president of the commission shall be a senator of the majority.

The designation will be made annually within fifteen days after the constitution of the General Assembly or after the initiation of each period of regular sessions of the legislature.

Art. 117. At the time that this election takes place, there shall be elected for each of the eleven members an alternate who shall substitute for the member in case of his sickness, death, or unavailability for any other reason.

Art. 118. The permanent commission shall be the guardian of the observance of the Constitution and the laws and will make the necessary representations to the executive power in this respect, under responsibility to the existing General Assembly or to the following one, in the appropriate case.

Art. 119. In case the above-mentioned representations, when they have been made for the second time, do not produce any effect, the commission may, on its own responsibility, according to the importance and gravity of the matter involved, convoke the General Assembly to an ordinary or extraordinary session.

In case the parliament has been dissolved, it will give an account of the matter to the General Assembly when the new chambers are constituted.

Art. 120. It will exercise its functions while the General Assembly is in recess and until its ordinary sessions are resumed. Nevertheless, upon the interruption of the recess and during the extraordinary sessions, the General Assembly or either of the chambers may, when they so decide, assume jurisdiction in matters within their competence which are under consideration by the permanent commission, upon notice to the latter body.

When the General Assembly has been dissolved, the permanent commission will function until the Assembly that has been elected has been constituted. If the powers of the senators and representatives have lapsed, through expiration of their constitutional terms of office, and the newly elected senators and representatives have not been proclaimed, the Permanent Commission shall continue to exercise the functions conferred upon it by this chapter, until the constitution of the new chambers.

In such case, each of the chambers upon being constituted shall proceed to the designation of the new members of the Permanent Commission.

Art. 121. The permanent commission shall likewise be competent to give or withhold its consent in all cases in which the executive power requires it in accordance with the present Constitution, and it will have the authority conferred on the chambers in Articles 106 and following, without prejudice to the provisions of paragraph 14 of Article 157.

SECTION VII

INTRODUCTION, DISCUSSION, PASSAGE AND PROMULGATION OF LAWS

Chapter I

Art. 122. Any project of law may originate in either of the two chambers through bills proposed by any of its members or by the executive power, by intermediary of its ministers, without prejudice to the provisions of paragraph 6 of Article 75 and Article 76.

Chapter II

Art. 123. If the chamber in which the bill originated approves it, it will pass to the other in order that, after being discussed there, it may be approved, amended, amplified, or rejected.

Art. 124. If either of the two chambers to which a bill has been sent returns it with amplifications or observations and the chamber which sent it is in accord with them, it shall give notice to that effect and the bill shall be sent to the executive power; but if the latter chamber is not in conformity with the amplifications or objections and insists on maintaining the bill in the form in which it was originally submitted, it may in that case officially request a joint session of both chambers and, according to the result of the discussion, there shall be adopted whatever may be decided by a two-thirds vote, which may modify the divergent bills or even approve a new one.

Art. 125. If the chamber to which the bill has been sent has no objection to offer, it shall approve it and, merely notifying the chamber which submitted it to that effect, shall pass it to the executive power in order that he may have it published.

Bills which have not been passed by both chambers in the same legislature will be considered to have originated in the chamber which last passed them.

Art. 126. If, when he has received a bill, the executive power has objections or observations to make, he shall return it with them to the General Assembly within the prescribed period of ten days.

Art. 127. When a bill shall have been returned by the executive power with objections or observations, the General Assembly shall be convoked and the matter shall be decided by a three-fifths majority vote of the members present.

Art. 128. If the observations of the executive power refer to a part of the bill, the Assembly, by an absolute majority vote of the members present, may pass the bill modifying it in accordance with the observations.

Art. 129. If the chambers in joint session disapprove the bill returned by the executive power, it will be considered null and void for the time being and may not be presented anew until the following legislature.

Art. 130. In all cases of the reconsideration of a bill returned by the executive, the voting will be by name and by "ayes" or "nays," and both the names and the votes of the voters, as well as the observations or objections of the executive power will be immediately published in the press.

Art. 131. When a bill passed by one chamber shall be rejected by the other at the beginning, it shall be considered null and void for the time being and may not be again introduced until the following period of the legislature.

Chapter III

Art. 132. If the executive power has no objection to offer to a bill which has been submitted to him, he shall immediately give advice to that effect, the bill being thereby approved and forwarded for promulgation without delay.

Art. 133. If the executive does not return a bill within the ten days provided in Article 126, it shall have the force of law and shall be complied

with as such, the house which sent it having the right to demand such action.

Art. 134. When a bill returned by the executive power with objections or observations has been considered by the chambers in joint session and has again been approved, it shall be considered as finally passed and shall be communicated to the executive power who shall promulgate it immediately without further objections.

Chapter IV

Art. 135. When a law has been passed, the following formula shall invariably be used for its promulgation:

The Senate and the House of Representatives of the Oriental Republic of Uruguay, met in General Assembly, etc., etc., decree:

SECTION VIII

THE RELATIONS BETWEEN THE LEGISLATIVE POWER AND THE EXECUTIVE POWER

Sole Chapter

Art. 136. The General Assembly, upon the petition of either of the chambers, may pronounce political judgment on the conduct of the ministers of state, disapproving their acts of administration or of government.

Art. 137. The petition may be made by either of the chambers by an absolute majority of those present and, when it has been communicated, the General Assembly will be convoked, with at least seven days advance notice.

Art. 138. The disapproval may be collective or not, and in either case must be voted by the absolute majority of the members of the General Assembly in a special and public session. Nevertheless, it may elect to meet in secret session when the circumstances so require.

Collective disapproval shall be construed as that which affects the majority of the cabinet.

Art. 139. The disapproval of the General Assembly shall require the resignation of the ministers, or of the council, as the case may be.

Art. 140. The President of the Republic may veto the vote of disapproval when it is cast by less than two-thirds of the members of the General Assembly.

If the latter maintains its vote of disapproval by a vote of less than three-fifths of all the members of both chambers, the President of the Republic may dissolve the chambers. In that case he must call elections which shall take place within sixty days from the date of the decree of dissolution.

With regard to non-collective disapproval, the President of the Republic may exercise the above-mentioned right only once during his term of office.

The decree of dissolution and that calling elections must be issued simultaneously.

Art. 141. The dissolved chambers shall have the full right to renew their sessions and shall recover their constitutional powers as a legitimate power of the State from the moment at which the executive power fails

to execute the decree calling for new elections, and in that case the council of ministers shall fall.

Art. 142. Within fifteen days of its constitution, which shall be effected without previous call of the executive power, the new General Assembly, by an absolute majority vote of its members, shall sustain or revoke the vote of disapproval.

If it sustains it, the President of the Republic and the council of ministers shall fall.

Art. 143. The chambers elected by extraordinary elections shall complete the normal term of office of the dissolved chambers.

Art. 144. The President of the Republic may not dissolve the chambers during the last six months of his administration.

During the same period the General Assembly may pass a vote of disapproval, with the effects of Article 139, only by a majority of two-thirds or more of its members.

SECTION IX

THE EXECUTIVE POWER

Chapter I

Art. 145. The executive power shall be exercised by the President of the Republic, who will function with a council of ministers, in accordance with the provisions of this section and those following.

Art. 146. There will be a Vice-President who, in all cases of a temporary or permanent vacancy of the presidency, shall hold that office, with the same powers as the President. If the vacancy is permanent, he shall hold the office until the expiration of the presidential term.

Art. 147. The Vice-President of the Republic shall act as president of the Senate and of the General Assembly.

Chapter II

Art. 148. The President and the Vice-President of the Republic shall be elected jointly and directly by the people by a simple majority of votes in accordance with the system of duplicate simultaneous votes, and in no case may accumulation by party divisions take place. The guarantees with regard to suffrage established in Section III shall likewise govern, and the Republic will be considered as a single electoral district.

The election shall take place on the last Sunday of the month of November, and only natural citizens exercising the rights of citizenship and more than thirty-five years of age may be elected.

Art. 149. The President and the Vice-President shall remain in office for four years and may be re-elected only after four years from the time of the termination of their terms of office. This provision includes the President with respect to the vice-presidency and not the Vice-President with respect to the presidency, with the exceptions contained in the following paragraphs.

A vice-president who shall have occupied the presidency for more than one year because of a permanent vacancy in that office may not again occupy that office or the office of vice-president until the period of time provided in the preceding paragraph has elapsed.

Neither may a vice-president who has occupied the presidency within three months prior to the election be elected President.

Art. 150. At the commencement of each legislature, the General Assembly, in a joint session of both chambers and by an absolute majority vote of all their members, shall designate the citizen who, in the possible case of vacancy of the presidency of the Republic, by reason of leave of absence, resignation, removal, or death of both the President and Vice-President, shall hold that office with the same powers and attributes as those provided in Article 146.

If it is necessary to designate a substitute for the citizen elected under this provision, the General Assembly may, at any time and by the same procedure, elect such a substitute.

In case the General Assembly, at the time when such a vacancy occurs in the presidency of the Republic, shall not yet have made the designation referred to in the preceding paragraphs, the president of the Supreme Court of Justice shall assume the office and shall convoke the General Assembly, and, if the latter shall not have made the designation within three days, he shall call elections for President and Vice-President of the Republic within the sixty days following. The call for elections shall not take place if the above-mentioned contingency occurs within the last year of the presidential term. In that case the president of the Supreme Court of Justice shall occupy the presidency of the Republic until the end of the term.

Art. 151. The salaries of the President and the Vice-President shall be fixed by law before each election and cannot be changed while the incumbents remain in office.

Art. 152. The General Assembly elected simultaneously with the President and the Vice-President of the Republic shall, in a joint session of both chambers, be the judge of the election of the latter officials.

For the total or partial annulment of that election, the affirmative vote of the absolute majority of all the members of both chambers shall be required.

In that case a new election must be called—total or partial—within sixty days.

If there be no motion for the annulment of the election, or if such a motion shall not have been sustained, the candidates who have obtained the majority of the votes in the election shall be proclaimed as elected.

Art. 153. If, within the period of time between the date of the election and that on which they take office, the candidates who have been elected President and Vice-President of the Republic should die or resign, a new election shall be called, and the procedure set forth in Articles 152 and 154 shall be followed.

If only the candidate who has been elected President should die or resign, the Vice-President-elect shall take his place for the complete term of office.

And if the candidate for the vice-presidency shall have died or resigned, or if he shall have been called to occupy the presidency due to the death or resignation of the President, the new General Assembly, in a joint session of both chambers and by an absolute majority of its members, shall designate, as Vice-President of the Republic for the entire term, a citizen who may not be a legislator. If he is a legislator, his functions as such shall be terminated, and his respective alternate shall be called as a substitute for him.

Art. 154. If, on the date fixed by the Constitution for the transfer of the presidential mandate, the General Assembly shall not have passed on the election of the President and Vice-President, or if the election is declared totally or partially annulled, and likewise in the case contemplated in the first paragraph of Article 153, the retiring President shall delegate his office to the president of the Supreme Court of Justice, who will hold it until the transfer is effected, and his judicial functions will be suspended during that time.

Art. 155. On the first of March following their election, the President and the Vice President of the Republic shall take possession of their offices, having previously made, in the presence of both chambers met in General Assembly, the following declaration:

I _____ promise on my honor loyally to discharge the office which has been entrusted to me and to preserve and defend the Constitution of the Republic.

Art. 156. The President of the Republic shall have the representation of the State in the interior and in the exterior.

Chapter III

Art. 157. The President of the Republic, acting with the respective minister or ministers or with the council of ministers, in accordance with the provisions of Article 174, has the following responsibilities:

(1) The preservation of order and tranquility in the interior and security abroad;

(2) The supreme command of all of the armed forces;

(3) To grant retirement, accord leaves of absence, and regulate the pensions of the civil and military employees in accordance with law;

(4) To publish and circulate without delay all of the laws which, in accordance with Section VII, are ready to be published and circulated; to execute them, to have them executed, and to issue the special regulations which may be necessary for their execution;

(5) To inform the legislative power, at the time of inaugurating the ordinary sessions, of the state of the Republic and the improvements and reforms which he considers worthy of its attention;

(6) To set forth objections or to make observations with regard to the projects of law which the legislative power sends him and to suspend or oppose their promulgation in the manner contemplated in Section VII;

(7) To propose bills to the chambers or modifications of laws previously issued;

(8) To convoke the legislative power to extraordinary sessions, setting forth the matters which gave rise to the convocation, in accordance with the provisions of Article 94;

(9) To confer civil or military offices in accordance with the Constitution and the laws;

(10) To remove employees for inefficiency, dereliction of duty or malfeasance, in all cases with the consent of the Senate or, in its recess, with that of the permanent commission; in cases of malfeasance, the summary should be passed to the courts. Diplomatic and consular officers may likewise be dismissed with the previous consent of the Senate for the commission of acts which affect their good name or the prestige of the country and of the representation in which they are engaged. If the Senate or the permanent commission does not take definite action within ninety days, the executive power may proceed with the dismissal without the consent requested;

(11) To grant military promotions in accordance with the laws, the consent of the Senate or, in its recess, of the permanent commission being necessary for promotions to the rank of colonel or to higher ranks;

(12) To appoint consular and diplomatic personnel, the consent of the Senate, or of the permanent commission in its recess, being necessary for the appointment of chiefs of mission;

(13) To appoint and remove chiefs of police;

(14) To designate the court attorney and the other attorneys of the Republic, with the consent of the Senate or of the permanent commission, in case of the dissolution of parliament, accorded in each case by a three-fifths majority vote of its members. This recourse shall not be necessary for the appointment of the attorneys of the government or of the treasury;

(15) To remove military and police employees and other employees who are declared by law to be removable, the consent of the absolute majority of the members of each house being necessary for such declaration;

(16) To receive diplomatic agents and to authorize foreign consuls to carry on their functions;

(17) To decree the severance of relations and, in accordance with the previous resolution of the General Assembly, to declare war, provided that arbitration or other pacific means to avoid it have not been successful;

(18) To take prompt measures of security in grave and unforeseen cases of foreign aggression or internal disturbance, giving an account within twenty-four hours to the General Assembly or, in its recess, to the permanent commission, of the action taken and its motives, the decision of the latter bodies being final.

With respect to persons, the prompt measures of security authorize only their arrest or removal from one place in the territory of the country to another provided that they do not elect to leave the country. This measure as well as others must be submitted within twenty-four hours to the General Assembly or, as the case may be, to the permanent commission, which will make a final decision;

(19) To collect revenues through agencies in conformity with the laws and to allot them in accordance therewith;

(20) To prepare and submit annually to the Assembly the general budget of the ensuing year in accordance with the provisions of the relevant section and to submit an itemized account of the application of funds during the previous year;

(21) To conclude and sign treaties, the approval of the legislative power being necessary for their ratification;

(22) To grant industrial privileges in accordance with the laws;

(23) To authorize or to withhold authorization for the creation of any banks the establishment of which may be contemplated;

(24) To lend, at the request of the judicial power, the assistance of the police force.

Chapter IV

Art. 158. The President of the Republic may not leave its territory for more than forty-eight hours without the authorization of both chambers met in General Assembly.

Art. 159. He may not permit the enjoyment of stipends for any other account than that of active service, pension, retirement, or government pension, in accordance with the laws; nor may he issue orders without the signature of the respective minister, without which requisite no one will be obliged to obey them.

Art. 160. The President of the Republic may not be accused except in the form established in Article 84 and, even then, only during the exercise of his office or within six months following its termination, during which

time he must reside within the country unless he receives authorization from both chambers, met in General Assembly by an absolute majority of votes, to leave it.

When the accusation has been sustained by a two-thirds majority vote of the House of Representatives, the President shall be suspended in the exercise of his functions.

SECTION X

THE MINISTERS OF STATE

Chapter I

Art. 161. There will be nine ministries, each of which will have its own name and such scope and authority in its separate functions as may be indicated by law passed by an absolute majority of all the members of each of the chambers.

Their number may also be modified by law, requiring, in each case, the favorable vote of two-thirds of all the members of each chamber.

Art. 162. The President of the Republic will distribute the ministries among citizens who, by enjoying parliamentary support, may be assured of holding their posts. He may, however, distribute four ministries among the members of the party which elected him.

He may also dismiss ministers, but must replace them as provided in the preceding paragraph.

The provisions of Section VIII shall, moreover, be complied with.

Art. 163. The minister or ministers will be responsible for such decrees or orders as they may sign or issue with the President, save in the case of express resolution of the council of ministers, in which the responsibility will be upon those who concur in the decision, which takes effect in conformity with Articles 84 and 92.

Art. 164. The same qualifications will be required for minister as those for representative.

Art. 165. Upon the opening of each legislative period, the ministers will submit succinct account to the General Assembly of all matters concerning their respective departments.

Art. 166. Upon the conclusion of their functions, ministers will be subject to six months' residence, and may not leave the territory of the Republic except by authorization granted by an absolute majority of votes of both chambers met in General Assembly.

Art. 167. Ministers may not be exempt from responsibility for crime even though they invoke the written or verbal order of the President of the Republic or of the council of ministers.

Art. 168. It is not indispensable that a person hold the rank of legislator in order to become minister or undersecretary of state.

Art. 169. Ministers, even when they are not legislators, may attend the sessions of the chambers and of their permanent or special commissions and may take part in their deliberations, but shall have no vote.

Like privileges will be enjoyed by the under-secretaries of state in so far as regards their attendance at commissions, at such times as the respective ministers may direct; also, by appropriate resolution of the latter, that of attending, in a body, the sessions of the chambers.

In both cases, the under-secretaries will act under the responsibility of the ministers.

Art. 170. The attributes of the ministers, in their respective portfolios and in accordance with the laws and regulations of the executive power, are as follows:

- (1) To enforce the Constitution, laws, decrees, and resolutions;
- (2) To formulate and submit to the consideration of superior authority such projects of laws, decrees, and resolutions as they may deem appropriate;
- (3) To effect, within the limits of their functions, the payment of the recognized debts of the State;
- (4) To grant vacations to the employees of their departments;
- (5) To propose the appointment or discharge of the employees of their divisions;
- (6) To supervise administrative functions and adopt the necessary measures for their proper conduct and to impose disciplinary penalties;
- (7) To sign and communicate the resolutions of the executive power.

Art. 171. The functions of the ministers and under-secretaries will be regulated by the executive power.

Chapter II

Art. 172. Each ministry shall have an under-secretary, who will be proposed by the minister, who will function concurrently with the latter, and whose services will terminate with those of the respective minister, unless reappointed.

Art. 173. In the event of absence of the ministers, the under-secretaries will attend to the conduct, with the President of the Republic, of the matters of the respective ministries, will countersign decrees, and may attend the deliberations of the council of ministers.

SECTION XI

THE COUNCIL OF MINISTERS

Sole Chapter

Art. 174. The council of ministers will be composed of the heads of the respective departments or the officials in charge thereof, and will have exclusive competence in all the acts of government and administration presented therein by the President of the Republic or any of his ministers.

It will function under the chairmanship of the President of the Republic, who will have voice in its deliberations and vote in its resolutions, to be decisive in cases of tie vote, notwithstanding that such tie may have been produced as a result of his own vote.

Art. 175. The council will hold session with the attendance of a majority of its members, and will abide at all times by the decision of an absolute majority of votes of members present.

At any time, and by like majority, any deliberation may be closed. The motion made to this effect may not be discussed.

Art. 176. All resolutions of the council may be revoked by the vote of the absolute majority of its members.

Resolutions which may originally have been passed by the President of the Republic with the respective minister or ministers, may be revoked by the council by absolute majority of those present.

Art. 177. The council of ministers will prescribe its own internal regulations.

SECTION XII

AUTONOMOUS BODIES OR DECENTRALIZED SERVICES

Sole Chapter

Art. 178. The various services which constitute the industrial and commercial organization of the State, and the superior, secondary, primary, and normal schools shall be administered by autonomous councils or directorates.

Art. 179. The services of posts and telegraphs, railways, customs and ports administrations, and public health may not be decentralized in the form of autonomous bodies, although the law may concede to these a degree of autonomy compatible with the supervisory authority of the executive power.

Art. 180. The councils or directorates, when they are set up, shall be composed of not less than three nor more than five members, as the law may establish in each case, and shall be designated by the executive power, in agreement with the council of ministers, after approval of the Senate, by three-fifths vote of all its members, upon consideration of a proposal setting forth the reasons therefor.

The law, by a three-fifths vote of all the members of each chamber, may declare them elective and may determine for each council or directorate the persons or bodies concerned in the service who shall conduct such election.

Art. 181. In order that the law may admit private capital in the constitution or extension of the property of the autonomous bodies or decentralized services, as well as for the purpose of regulating the participation of the respective stockholders in the councils or directorates, three-fifths of the votes of all the members of each chamber will be required.

The amount of private capital and the proportion of representation of the same in the councils or directorates shall never be greater than those of the State.

Art. 182. For the creation of new autonomous bodies, or for the dissolution of those existing, two-thirds of the votes of all the members of each chamber will be required.

Art. 183. The autonomous bodies or decentralized services may not conduct any business foreign to that specifically assigned to them by law, nor may they devote any of their resources to purposes foreign to their normal activities.

The law shall determine the conditions and circumstances under which they may acquire real property, for which purpose the favorable vote of four members of the respective councils or directorates, when composed of five, and the unanimous vote when composed of three members, shall be required.

Art. 184. Each of the autonomous organizations shall publish, periodically, statements which shall clearly reflect their financial condition. The law shall fix the pattern and annual number of the same and each shall bear the visa of the tribunal of accounts.

Art. 185. The members of the councils or directorates shall remain four years in their charge. However, they shall continue in the exercise of their functions until such time as their successors shall have been appointed.

They may be re-elected, provided their administration has earned the favorable opinion of the tribunal of accounts.

Art. 186. The outgoing councils or directorates shall submit an accounting of their work to the executive power, after report by the tribunal of accounts, without prejudice to responsibilities incurred—in accordance with the provisions of Section XIII.

Art. 187. When the executive power shall consider any act of the councils or directorates as inadvisable or illegal, it may address to them such observations as it may deem appropriate. Should these be disregarded, the executive power shall place them before the Senate, and may at the same time propose corrective measures or request such removals as it may deem appropriate. The Senate shall make decision by a three-fifths vote of all its members. The law will regulate the authority of the executive power under this article.

Art. 188. The provisions of the preceding article shall not affect the authority of the executive power to bring about the removal of councilors or directors in cases of inefficiency, neglect, or malfeasance in the exercise of their functions; or for the commission of acts which affect their reputation or the prestige of the institution with which they are connected.

The removal shall be approved by a three-fifths vote of all the members of the Senate.

Art. 189. To modify the organic charter of the state banks, an absolute majority of the members of each chamber shall be required.

Art. 190. The members of the councils or directorates of the autonomous bodies or decentralized services may not be appointed to posts, not even honorary posts, which directly or indirectly depend upon the institution with which they are connected.

This inhibition will be effective for a period of one year following the termination of the functions which are the occasion for it, whatever be the reason for such termination, and shall include any other post, professional or otherwise, even though it be not of permanent character nor of fixed remuneration.

Nor may the members of the councils or directorates of the autonomous bodies exercise simultaneously professions or activities which, directly or indirectly, bear relation to the institution with which they are connected.

The provisions of the two preceding paragraphs are not applicable to teachers.

SECTION XIII

THE PUBLIC WEALTH

Sole Chapter

Art. 191. All ordinary income and expenditures of the state shall be pre-determined and included, for each economic year, in a single budget, which can be modified during its term only by a special law, at the instance of the executive power and for the exclusive purpose of changing the object of authorized allotments or creating new and supplementary credits.

The legislative power may take the initiative with respect to any expenditures not provided for in the foregoing paragraph, subject to the provisions of Section V.

Art. 192. The judicial power, the tribunal of administrative conflicts, the electoral court, the decentralized services and the autonomous bodies, with the exception of those included in Article 193, shall prepare their respective budgets and present them to the executive power, which will include them in the draft of the general budget. The executive power may modify the original proposals and shall submit them, with the modifications, to the legislative power.

Art. 193. The budgets of the industrial or commercial agencies of the State shall be prepared by each of these and submitted for approval to the executive power, after report by the tribunal of accounts. The executive power may object to the budgets and, in this case as in those in which objections are made by the tribunal of accounts, shall return them to the respective entity.

If the agency accepts the objections of the executive power and the report of the tribunal of accounts, it shall return the papers in the case to the executive power for approval of the budget.

In the absence of the concurrence mentioned in the foregoing paragraph, the budgetary drafts shall be sent to the legislative power, with the addition of the papers in the case, for decision as regards the discrepancies and global allotments, subject to the provisions of Article 197.

The report of the tribunal of accounts requires the favorable vote of four of its members, at least, and shall be communicated to the respective agency within a fixed period to be established by law.

The budgets approved shall be included in the general budget of expenditures, for purpose of information.

The law shall fix, after reports by the respective agencies and the tribunal of accounts, as well as the opinion of the executive power, the percentages that each agency may reserve for salaries and expenses of management and administration.

Art. 194. A special section may be established by law in the general budget to include the ordinary permanent expenses of the administration, whose annual revision shall not be indispensable.

No provisions shall be included in the general budget which will be in effect beyond the fiscal year, or which do not apply exclusively to its interpretation and execution.

Art. 195. The form which the general budget shall follow and the dates of its presentation and approval shall be prescribed by the accounting law, which shall determine also the consequences of violation of its provisions.

Art. 196. The budgetary projects of all the agencies of the State, the municipalities, the decentralized services and the autonomous bodies, whatever their nature, shall be brought before the executive power, and, when a particular case demands, to the parliament, in a form comparable to the budget then current.

Art. 197. The legislative power may not increase the allocations of salaries and expenditures included in the draft of the general budget submitted by the executive power.

Art. 198. Supervision of the execution of the budgets and the exercise of control in all matters relating to the public wealth shall be vested in the tribunal of accounts of the Republic, which will function with administrative autonomy; the regulation of such autonomy, as well as the determination of powers and duties covered in this chapter, being governed by the law to be drafted by the said tribunal.

Art. 199. The tribunal of accounts shall be composed of five members who will have the same qualifications as those prescribed by this Constitution for senator, appointed in the same manner as ministers of the Supreme Court of Justice.

The incompatibilities established in Articles 110, 111, 112, and 113 will apply in this respect.

They shall remain in office for four years, and may be re-elected. There shall be alternates for cases of vacancy, temporary disability, and vacations of the principal members.

Art. 200. The members of the tribunal of accounts shall be responsible to the General Assembly, at a meeting of both chambers, for the faithful and accurate fulfillment of their functions. The General Assembly may displace them for cause of inefficiency, neglect, or malfeasance, by two-thirds vote of all its members.

Art. 201. It shall be the province of the tribunal of accounts:

- (a) To deliver opinions and furnish information in budget matters;
- (b) To supervise expenditures and payments, in accordance with the rules and regulations to be established by law, and for the sole purpose of certifying as to their legality, appending, whenever necessary, any pertinent observations. Should the respective auditor insist, he shall communicate the matter to the tribunal, without prejudice to compliance with the order.

Should the tribunal of accounts, in its turn, sustain its observations, it shall communicate detailed information to the General Assembly or to whoever may be acting in its stead, for proper action. In the municipalities, decentralized services, and autonomous entities, the duties to which this paragraph refers may be performed under like conditions, through the intermediary of the respective accountants or officials acting in their stead, who shall perform such duties under the superintendence of the tribunal of accounts, subject to the provisions of law, which may extend this rule to other public services administering funds;

- (c) To deliver opinions and furnish information with respect to the submission of accounts and activities of all the organs of the State, including municipalities, decentralized services, and autonomous bodies, whatever their nature, as well as, in so far as regards appropriate action in cases of responsibility, setting forth the pertinent considerations and observations;

- (d) To present to the General Assembly the annual report relative to the rendering of accounts, required in the preceding paragraph;

- (e) To act in all matters relating to the financial activities of the organs of the State, municipalities, and services referred to in paragraph (c), and report to the appropriate authority all irregularities in the management of public funds or infractions of budget and accounting laws;

- (f) To issue ordinances on accounting, which shall be binding upon all organs of the State, municipalities, decentralized services, or autonomous bodies, whatever their nature;

- (g) To draft its budget, which it shall bring before the executive power for inclusion in the general budget of expenditures. The executive power, with such modifications as it may deem fit to make, shall transmit it to the parliament, for final resolution.

Art. 202. The tribunal of accounts shall exercise supervision in all matters within its competence and, subject to the provisions of its organic law, over all the offices of accounts, collections, and payments of the State, municipalities, decentralized services, or autonomous bodies, whatever their nature, and it may propose to the appropriate officials such changes as it may deem appropriate.

Art 203. The tribunal of accounts shall present to the executive power the draft of the law of accounting and financial administration, and the executive power shall submit it to the legislative power together with such observations as it may deem appropriate. Such draft shall include regulatory provisions covering financial and economic administration, and, particularly, the organization of the accounting and collecting services; the requisites, for purposes of supervision, for the acquisition and alienation of property and the making of contracts affecting the public wealth and for making effective preventive supervision of receipts, expenditures, and payments; and the responsibilities and guaranties which shall be exacted from officials who have to do with the handling of the patrimony of the State.

SECTION XIV

COUNCIL OF NATIONAL ECONOMY

Sole Chapter

Art. 204. The law may create a council of national economy, advisory and honorary in character, composed of representatives of the economic and professional interests of the country. The law shall prescribe the form of constitution and functions of the same.

Art. 205. The council of national economy shall address itself to the public powers in writing, but it may have its opinions supported before legislative commissions by one or more of its members.

SECTION XV

THE JUDICIAL POWER

Chapter I

Art. 206. The judicial power shall be vested in the Supreme Court of Justice and in the tribunals and courts in the manner prescribed by law.

Chapter II

Art. 207. The Supreme Court of Justice shall be composed of five members.

Art. 208. The following qualifications are prescribed for members of the Supreme Court of Justice:

- (1) Forty years of age;
- (2) Native citizenship in the enjoyment of the rights thereof;
- (3) To be a lawyer and have been for a period of eight years a member of the judiciary or of the public ministry or to have had ten years of practice in the profession before the bar.

Art. 209. Appointment shall be by the General Assembly, in joint meeting of the chambers, as prescribed in paragraph 18 of Article 75.

Art. 210. The office of member of the Supreme Court of Justice shall be for a period of ten years, without prejudice to the provisions of Article 223.

Those who fill it may not be re-elected without the intervention of five years between the termination of their office and their re-election.

Art. 211. Their compensation shall be fixed by the legislative power.

*Chapter III***Art. 212. The Supreme Court of Justice shall:**

(1) Try all violators of the Constitution, without exception; exercise jurisdiction with respect to offenses against the law of nations, cases in admiralty, questions relating to treaties, pacts, and conventions with other states, and matters affecting diplomatic representatives accredited within the Republic in such cases as are contemplated by international law.

In the matters stated and in all others in which the Supreme Court has original jurisdiction, it shall be the province of the law to decide upon the stages of the proceedings, which in any case shall be public and shall require definitive sentences setting forth the reasons therefor, with express references to the law applied;

(2) Exercise directive, corrective, advisory, and economic supervision over the tribunals, courts, and other dependencies of the judicial power;

(3) Prepare annually the draft of budget of the judicial power and transmit it in due course to the executive power for inclusion by the latter in the draft of the general budget, together with such modifications as may be deemed appropriate;

(4) With the approval of the Senate, or, in its recess, that of the permanent commission, appoint the citizens who shall compose the tribunals of appeals, such appointments to be contingent upon the following:

(A) favorable vote of three of its members, for candidates who belong to the judiciary or to the public ministry, and

(B) favorable vote of four for candidates not having the qualifications of the foregoing paragraph;

(5) Appoint the lawyer judges of all grades and classes, there being required, in each case, the absolute majority of all the members of the Supreme Court.

These appointments shall be definitive in character from the moment they are made whenever the candidates concerned are citizens who belonged, for a period of at least two years, to the judiciary or to the public ministry or to the bench of justices of the peace, in offices which must be filled by lawyers.

If the officials referred to should be of less seniority in their respective posts, they shall be considered as interim lawyer judges for a period of two years, beginning on the date of appointment, and for this same period citizens newly taken into the magistracy shall enjoy a like classification.

During such interim period, the Supreme Court may at any time remove the interim lawyer judge by absolute majority of all its members. At the end of the interim period the appointment shall be considered as being confirmed in full right;

(6) Appoint the permanent official defenders, justices of the peace, and district judges, by absolute majority of all the members of the Supreme Court;

(7) Appoint the employees of the judicial power, requiring for any designation the absolute majority of all the members of the Supreme Court and requiring for the staffs of the tribunals and judges the previous proposal of the latter;

(8) perform such other duties as the law may prescribe.

Art. 213. In the exercise of its functions, it shall address itself directly to the other powers of the State, and its president shall be empowered to attend the committees on codes, on legislation, and on constitution of both chambers, in order that by voice and without vote he may take part in their deliberations when they treat of matters of interest to the administration of justice, and may give impulse before those bodies to drafts of judicial reform and the codes of procedure.

Chapter IV

Art. 214. There shall be established such appellate tribunals as the law may determine, and with such attributes as the law may confer upon them. Each one of these tribunals shall be composed of three members.

Art. 215. To be a member of an appellate tribunal, the following qualifications shall be required:

- (1) Minimum age limit of thirty-six years;
- (2) Full native citizenship; or legal citizenship of at least seven years;
- (3) To be a lawyer and to have been for a period of at least six years a member of the judicature or of the public ministry or to have practiced the profession before the bar for at least eight years.

Art. 216. The members of the appellate tribunals shall remain in office for the term of their good conduct, up to the limit prescribed by Article 223.

Chapter V

Art. 217. The law shall prescribe the number of lawyer courts in the Republic, consistent with the exigencies of the most prompt and efficient administration of justice, and shall indicate the location of the seat of each of these, its attributes and the method of exercising the same.

Art. 221. To be a lawyer judge, the following requirements must be met:

- (1) Minimum age limit of twenty-eight years;
- (2) Full native citizenship, or legal citizenship for at least four years;
- (3) To be a lawyer and to have been for a period of two years a member of the public ministry or of the bench of justices of the peace, in duties which may be discharged only by lawyers, or to have had four years of practice in the profession before the bar.

Art. 219. The lawyer judges who render effective service shall remain in office during the period of good conduct up to the limit established in Article 223. Notwithstanding, and for reasons of good service, the Supreme Court of Justice may transfer them at any time from their office or place, or from both, provided such transfer is decided upon after hearing the court attorney and subject to the following conditions:

- (1) Vote of approval of three of the members of the Supreme Court in favor of the transfer, if the new office does not imply reduction in grade or remuneration, or both, as compared with the former;
- (2) Vote of approval of four of its members in favor of the transfer if the new office does imply reduction in grade or remuneration, or both, as compared with the former.

Chapter VI

Art. 220. To be a justice of the peace or district judge the following requirements are prescribed:

- (1) Minimum age limit of twenty-five years;
- (2) Full native citizenship, or legal citizenship of two years;

To the qualifications stated there should be added the requirement that candidates for justice of the peace in the department of Montevideo must be lawyers, and those in the capitals and cities of the other departments or in any other town in the Republic in which the judicial activity,

in the opinion of the Supreme Court, so demands, must be either lawyers or notaries public.

Art. 221. There shall be as many peace courts as there are judicial sections into which the territory of the departments is divided, and as many district courts as there are judicial districts into which the sections are subdivided.

Art. 222. The justices of the peace and district judges shall remain in office for four years, but, at any time, they may be removed if the best interests of the public service so demand.

Chapter VII

Art. 223. The services of all members of the judicial power shall cease upon their attaining the age of seventy years.

Art. 224. Offices under the judicature shall be incompatible with any other salaried public office or permanent honorary function, with the exception of those specially connected with the judiciary.

In this latter case, the previous authorization of the Supreme Court will be required, by absolute majority of all its members.

Art. 225. Magistrates and all persons attached to offices and internal departments of the Supreme Court, tribunals, and courts shall be prohibited, on penalty of immediate dismissal, from conducting, defending, or handling judicial matters, or from acting, except as lies within their official duties, in any way in connection with the same, notwithstanding they be of voluntary jurisdiction. The violation shall be declared officially as soon as it becomes known. The prohibition shall be without effect only with respect to personal matters of the official or of his wife, children, and parents.

With reference to the personnel of the offices and departments, these shall be subject to such exceptions as the law may establish.

The law may also lay down individual prohibitions for the officials or employees of the staffs not covered by the first paragraph of this Article.

Chapter VIII

Art. 226. Military jurisdiction shall be limited to military offenses and to the state of war.

Common offenses committed by the military in time of peace, regardless of the place in which committed, shall be subject to the ordinary courts.

Art. 227. The administration of justice shall be gratis for those persons declared poor according to law. In the suits in which such declaration has been made in favor of the plaintiff, the defendant shall enjoy like privilege up to the time of pronouncement of definitive sentence, which shall establish his right to the same in the event that such sentence declares the plaintiff guilty of bringing suit without sufficient cause.

Art. 228. No suit in a civil cause may be brought without first showing that settlement has been attempted before a peace court, save for exceptions established by law.

Chapter IX

Art. 229. Laws may be declared unconstitutional by reason of form or content, in accordance with the provisions of the succeeding Articles.

Art. 230. Such declaration and the inapplicability of the provisions by it affected must be requested by the interested party.

The judge or tribunal acting in the case may also, officially, establish unconstitutionality before making a decision.

Art. 231. The petition having been prepared, or the unconstitutionality having been established, in any particular case, the case shall be suspended and the papers shall be submitted to the Supreme Court of Justice, which has original and exclusive jurisdiction in the matter, with the requisites of definitive sentences.

The decision of the Supreme Court of Justice shall have effect only in the proceeding in which it is delivered.

Art. 232. The law shall prescribe the pertinent procedure.

SECTION XVI

THE GOVERNMENT AND ADMINISTRATION OF THE DEPARTMENTS

Chapter I

Art. 233. The government and administration of the departments, with the exception of the services of police, shall be vested in a mayor, a departmental council, and one or more local councils.

Art. 234. The departmental councils shall be composed of thirty-one members in Montevideo and fifteen in the remaining departments, the offices being distributed among the different parties, in proportion to the electoral count of each of them, without prejudice to the provisions of paragraphs 4 and 5 of this Article.

The election shall be made directly by the people, under the guarantees prescribed for the suffrage by Section III.

The voting shall be on the same ballot for mayors and members of the councils, and entirely separate from the general election ballots.

If the list receiving the greatest number of votes on the party receiving the greatest number of votes, whose candidate for mayor is elected, has received only a plurality of votes, the majority of the seats on the departmental council shall be allotted to that list.

The other seats shall be distributed by the system of integral proportional representation among the other parties and sub-parties which have not obtained representation on the prior allotment.

The members of the councils shall remain in office for four years. Conjointly with the titular members, there shall be elected three times the number of alternates.

Art. 235. To be a member of the departmental council, the requirements shall be: twenty-five years of age; native citizenship or legal citizenship of at least three years; and to be a native of the department or a resident thereof for at least three years previous.

Art. 236. The mayors shall be elected directly by the people, by simple majority of votes, by the system of double simultaneous vote, and under the guarantees established for suffrage in Section III, the successful candidate being the one on the majority ticket of the majority party.

They shall hold office for four years and may be once re-elected, being required, in order to be candidates, to submit their resignations at least three months before the date of election.

The qualifications for mayor shall be those of senator, it being required, in addition, that the candidate be a native of the department or a resident thereof for at least three years previous.

The law may change the number of members of the councils and the system of election of mayors by two-thirds vote of the members of each of the chambers.

Art. 237. With the mayor there shall be elected four alternates, who shall meet the same qualifications and who shall be called to fill a vacancy, if it occurs, in numerical order.

Art. 238. The executive function of departmental government shall be vested in the mayor. In addition to those prescribed by law, his duties shall be:

- (1) To promulgate and publish the decrees sanctioned by the councils, prescribing such regulations or resolutions as he may deem appropriate for the administration of the same;

- (2) To prepare the general budget of expenditures and submit it to the approval of the departmental council;

- (3) To designate the members of the local councils, with the approval of the departmental council;

- (4) To appoint the employees of his staff, including those of the local councils, and, in case of inefficiency, neglect or malfeasance, to remove them with the approval of the departmental council, which must be issued within forty days. Otherwise, the removal shall be considered as having taken effect;

- (5) To represent the department in its relations with the powers of the State or with the other departmental governments, and in its negotiations with official or private organs.

Art. 239. The departmental council shall have the functions of supervision and legislative power in municipal matters. Its jurisdiction shall extend to all the territory of the department and it shall have its seat in the capital of the same. In addition to those prescribed by law, the departmental councils shall have the following powers:

- (1) To remove members of the local councils at the instance of the mayor and by absolute majority of votes;

- (2) To hand down, at the instance of the mayor, or upon its own initiative, such decrees and resolutions as it may deem necessary;

- (3) To sanction, annually, the budget of the municipality;

- (4) To appoint the employees of its offices and remove them in case of inefficiency, neglect, or malfeasance;

- (5) To demand the intervention of the tribunal of accounts for decision as to questions relating to the departmental finances or administration, one-third of the total votes being sufficient for the approval of such resolution;

- (6) To study the applications for consent or approval presented by the mayor;

- (7) To request directly from the legislative power any modifications or amplifications of the organic law of the departmental governments;

- (8) To create, at the instance of the mayor, new local councils.

Art. 240. The mayors or the departmental councils may make protest to the Supreme Court of Justice against any infringement of departmental autonomy, in the manner prescribed by law.

Art. 241. The departmental councils may grant concessions for local or departmental public services, at the instance of the mayor and by absolute majority of votes.

Art. 242. The decrees and resolutions which the departmental council may sanction shall require, in order to take effect, prior promulgation by the mayor.

The latter may veto those which he deems unsuitable, the council being able, however, to maintain its position by two-thirds vote, and in such case it shall take effect immediately.

The budget which may have reached the General Assembly, through the channels established in Article 251, may not be vetoed.

Art. 243. In any community beyond the city limits of the capital of the department, there may be established a local council, whose members shall be designated on the basis, so far as possible, of the proportionality of the departmental council in the representation of the various parties. Its number shall be five members, who shall have the same qualifications required for member of the departmental council, and must be residents of the locality. Its president shall exercise executive functions in his jurisdiction.

Art. 244. The law shall prescribe the conditions for the creation of the local councils and their scope of authority, which may be amplified by absolute majority of votes of the two chambers, in communities which, though not capitals of departments, have over ten thousand inhabitants or present special national interest for the development of tourist travel.

Chapter II

Art. 245. The office of mayor shall be incompatible with any other office or employment, public or private, with the exception of the teaching profession. He may engage in any occupation or profession, or in commerce or industry, provided that in the exercise of such activities he enters into no dealings with the municipality.

Art. 246. No person shall be a member of a departmental or local council who receives salary or remuneration from private enterprises which are under contract with the municipality.

Art. 247. Mayors and members of councils, during their terms of office, are likewise prohibited from:

(1) Acting as directors or administrators of enterprises which contract for works or supplies for municipalities, or for any other public organization related to the same;

(2) Negotiating or conducting for themselves or for third parties with the municipalities.

Violation of the prohibitions established in this and the two preceding articles shall carry immediate loss of the office.

Art. 248. The offices of mayor and members of departmental councils are incompatible with the exercise of any other elective public office of whatever nature.

Chapter III

Art. 249. The offices of members of the departmental and local councils shall be honorary.

The mayor shall receive the salary fixed by the departmental council prior to his election. Its amount may not be changed during his term of office.

Art. 250. Mayors and members of departmental councils may be accused before the Senate, by a vote of one-third of the said councils, for the reasons specified in Article 84 of the Constitution.

The Senate may separate them from their offices by a two-thirds vote of all its members.

Chapter IV

Art. 251. The mayor shall submit each year, to the departmental council, for its study and sanction, a draft of a balanced budget. The council may modify it only for purpose of increasing the revenues or reducing the expenditures, being without authority to lend its approval to any draft which involves deficits or to create offices upon its own initiative.

Prior to the sanction of the budget, the council shall request reports from the tribunal of accounts, which shall issue its opinion within twenty days, being authorized to object only to errors in calculation of resources, omission of budgetary obligations, or violation of constitutional provisions or pertinent laws. Should the council accede to the objections of the tribunal of accounts, or should there be none, it shall definitively sanction the budget.

In no case may the council present modifications after the report of the tribunal.

Should the departmental junta not accede to the objections made by the tribunal of accounts, the budget shall be submitted, together with all pertinent documents, to the General Assembly, in order that the latter, in joint meeting of both chambers, may resolve the differences within a period of forty days, and if no decision shall have been forthcoming, the budget shall be considered sanctioned.

The municipal budgets declared to be in effect shall be communicated to the executive power, for inclusion, for purpose of information, in the general budget of expenditures, and to the tribunal of accounts, with full information to the latter of the action taken upon its objections, if such there be.

Art. 252. The term of effect of the budget shall be one year and shall be coincident with the calendar year. The law shall fix, by three-fifths vote of all the members of each chamber, the percentage of total expenditures which may be devoted to the payment of salaries and wages, in the ordinary budget as well as in the extraordinary expenditures for public works, etc.

Pending approval of the budget for the fiscal year, the budget of the preceding year shall continue in force.

Art. 253. The legislative power exclusively, at the request of the mayor, with the approval of the departmental council and after report of the tribunal of accounts, may create new municipal imposts.

Art. 254. The rates or tariffs for utilization or exploitation of municipal services shall be resources of the departmental governments, decreed and administered exclusively by the latter.

Art. 255. The national government shall pay into the municipal treasury seventy-five percent of the proceeds accruing during the year from the tax on real property situated within its boundaries, excluding additional taxes and surcharges. The law shall specify, moreover, the sources of revenue whose income shall be paid into the municipal treasury, such sources being exempt from national taxes.

Art. 256. The departmental governments may not contract loans except by proposal of the mayor, with the approval of the departmental council and the consent of the legislative power. In each case, the prior report of the tribunal of accounts shall be required.

Art. 257. All surplus shall be applied in full to extraordinary amortizations of the departmental debt. In the absence of such debt, it shall be

applied to the execution of public works or reumunerative investments, resolution to this effect to be adopted by the departmental council at the proposal of the mayor and after report from the tribunal of accounts.

Chapter V

Art. 258. Decrees of councils and resolutions of mayors contrary to the Constitution or the laws shall be appealable to the Chamber of Representatives by one third of the council, by three hundred citizens registered in the department, or by the executive power.

If within sixty days following the receipt by the chamber of the documents in the case the appeal has not been resolved, the recourse shall be regarded as not having been taken.

Art. 259. When the resolution appealed from has as its object the increase of departmental revenues, the appeal interposed may not have the effect of suspending action. Nor shall it have this effect when the appeal is interposed in the second case cited in the foregoing article.

Art. 260. The law shall prescribe the recourses available to citizens against resolutions of departmental governments, of municipal as well as judicial character, for purposes of indemnifying any resulting damages to rights.

Art. 261. Without prejudice to the provisions of Article 250, the law shall determine the responsibility of mayors and members of the council and the manner of its enforcement.

Chapter VI

Art. 262. The law, by absolute majority of votes of all the members of both chambers, may introduce the referendum in municipal affairs.

Art. 263. Fifteen percent of the registered residents of a locality shall have the right of initiative before their respective council in matters affecting that jurisdiction. The local council must consider the propositions presented and refer them to the competent authorities.

Art. 264. The police shall lend its co-operation to the mayor and to the councils when requested to do so for the fulfillment of their functions.

Chapter VII

Art. 265. In each department there shall be a chief of police, appointed by the executive power.

Art. 266. The qualifications for chief of police shall be: thirty-year minimum age limit, full enjoyment of citizenship, and to be a native of the department or resident thereof for at least two full years immediately preceding.

Art. 267. The police shall be responsible directly to the executive power.

SECTION XVII

THE ADMINISTRATIVE LITIGATION TRIBUNAL

Chapter I

Art. 268. There shall be established, by law, a tribunal of administrative conflicts, composed of three members.

Art. 269. The qualifications necessary for members of this tribunal shall be those established for members of the Supreme Court of Justice,

and their appointment shall be in accordance with the provisions of paragraph 18 of Article 75.

The emoluments of these offices and their duration shall be determined by law.

Chapter II

Art. 270. The tribunal of administrative conflicts shall act upon complaints against illegal resolutions of the administration, adopted in the course of its functions, either against private individuals and entities or against public employees.

The jurisdiction of the tribunal shall include the acts of municipal authorities and those of the decentralized services and autonomous bodies.

Art. 271. There shall be considered as illegal decisions those which are in violation of the law, either in form or in substance.

Those decisions shall also be judged illegal which do not serve the purpose for which they were designed and which under the law involve the abuse or distortion of authority.

Art. 272. The tribunal shall limit itself to appraising the act in itself, confirming or annulling it, without alteration.

The consideration of the responsibilities of the administration shall be left to the regular courts.

Art. 273. The tribunal shall act, in addition, upon conflicts of jurisdiction based on legislation and upon the differences that may arise between the executive power and the mayors, departmental councils, decentralized services, or autonomous bodies and, likewise, upon the disputes or differences arising between one and another of these organs. It shall act also upon the disputes or differences that may arise among the members of the boards or directorates of autonomous bodies or decentralized services, when such disputes or differences have not yielded to settlement by the normal procedure for ascertaining the will of the agency. Disputes based upon the Constitution shall be heard by the Supreme Court of Justice.

If the Supreme Court or the tribunal sees fit, at the time of issuing a final decision, it may suspend mayors, members of departmental councils, or directors of autonomous bodies and decentralized services, sending the records to the competent authority for the initiation of the appropriate proceedings.

The suspended officials shall be replaced by their respective alternates and, if there are none, the executive power shall designate them with the consent of the Senate. If thirty days pass without the initiation of proceedings by the competent authority, the officials shall be restored to their posts.

If the competent administrative authority is the executive power, the definitive decision shall be issued within one hundred and eighty days. If the Senate must pass upon the decision of the executive power, it must do so within ninety days, and if it fails to do so within that period, the decision of the executive power shall be carried out. If the competent authority is the Senate, it must issue its decision within ninety days (Article 250).

Upon the expiration of the prescribed periods without the issuance of a decision, the officials shall be restored to their posts.

In case the competent authority is a criminal court the suspension of the officials shall continue until acquittal or conviction is declared by final sentence or until dismissal of the case is ordered.

Until the law shall have established the tribunal of administrative conflicts all the disputes or differences referred to in this article shall be decided by the Supreme Court of Justice.

Art. 274. The law, by three-fifths' vote of all the members of each chamber, may extend the competence of the tribunal, investing it with full jurisdiction in matters of administrative conflicts. In such case, the same body shall act in the matters referred to in paragraph 2 of Article 272.

SECTION XVIII

ELECTORAL JUSTICE

Sole Chapter

Art. 275. There shall be an electoral court, exercising the following functions, in addition to those established in Section III and those prescribed by law:

- A. acting in all matters relating to electoral acts and procedures;
- B. exercising directional, corrective, advisory, and economic supervision over electoral organs;
- C. making final decision on all appeals and claims that may arise, and being judge of the elections of all offices of an elective character, except as provided in Articles 95 and 152.

Art. 276. In budgetary and financial matters, there shall be applied the provisions of Section XIII.

Art. 277. The electoral court shall be composed of five members and two alternates for each member, all being citizens who, by virtue of their political standing, afford assurance of impartiality. The law may increase to nine the number of members of the electoral court, including four representatives of the parties, with voice and vote.

The decisions of the court must always have the concurrence of at least three of the five members referred to in the first paragraph of this article.

The method of election and the procedure of the electoral organs shall be those prescribed by law, with the guaranties stipulated in Section III.

Art. 278. The Electoral Court shall communicate directly with the Public Powers.

SECTION XIX

THE OBSERVANCE OF FORMER LAWS, EXECUTION AND AMENDMENT OF THE PRESENT CONSTITUTION

Chapter I

Art. 279. There are hereby declared to be in full force and effect the laws which up to the present have governed in all matters and points which are not directly or indirectly in conflict with this Constitution or with the laws issued by the legislative body.

Chapter II

Art. 280. Any person who attacks or who is instrumental in attacking the present Constitution, following its sanction and publication, shall be regarded, tried and punished as guilty of treason.

Chapter III

Art. 281. The present Constitution may be amended, wholly or in part, in accordance with the following procedures:

A. Upon the initiative of ten per cent of the citizens inscribed in the national civic register, presenting a detailed proposal which shall be referred to the President of the General Assembly and submitted for popular decision at the next election.

The General Assembly in a meeting of both chambers may make substitute proposals which shall be submitted to plebiscitary decision together with the popular initiative.

B. By proposals of amendment approved by two-fifths of all the members of the General Assembly, presented to the president thereof, and submitted to plebiscite at the next ensuing election.

For an affirmative result in the cases of paragraphs A and B, the "Aye" votes of an absolute majority of the citizens participating in the election shall be required, and this majority must represent at least thirty-five per cent of all those inscribed in the national civil register.

C. The senators, the representatives and the executive power may present proposals of amendment which must be approved by absolute majority of all the members of the General Assembly.

A proposal which is rejected may not be renewed until the succeeding legislative period, and the same formalities must be observed.

Upon the approval of the proposal and its promulgation by the president of the General Assembly, the executive power shall within the next ninety days call elections for a national constituent convention which shall consider and decide upon the proposals of amendment approved as well as upon any other proposals which may be presented to the convention. The number of members of the convention shall be double the number of members of the legislature. Alternates in a number double that of the members of the convention shall be elected at the same time. The conditions of eligibility and the immunities and incompatibilities shall be the same as those which apply to representatives.

The election by departmental lists shall be governed by the system of integral proportional representation, in conformity with the laws in force for the election of representatives. The convention shall meet within one year from the date of the promulgation of the proposal of amendment. The decisions of the convention must be taken by absolute majority of all the members of the convention, and the work of the convention must be completed within one year from the date of its commencement. The proposal or proposals drawn up by the convention shall be communicated to the executive power for immediate and full publication.

The proposal or proposals drawn up by the convention must be ratified by the electoral body, convoked for the purpose by the executive power, on the date to be fixed by the national constituent convention.

Voting shall be by "Aye" or "Nay" and, if there are several texts of amendment, shall be separate for each of them. For this purpose the constituent convention shall group the amendments which by their nature require to be voted on together. One-third of the members of the convention may require separate voting on one or several texts. The amendment or amendments must be approved by majority of votes, and such majority shall be not less than thirty-five per cent of the citizens inscribed in the national civil register.

In the cases of paragraphs A and B, there shall be submitted for ratification by plebiscite at the time of the next elections only those proposals which have been presented at least six months before the date of those elections or, in the first of the said cases, only those substitute drafts approved by the General Assembly three months before the said date. Proposals presented after the

said periods shall be submitted to plebiscite at the time of the subsequent elections.

D. The Constitution may be amended, also, by constitutional laws which shall require for their sanction two-thirds of all the members of each of the chambers in the same legislature. Constitutional laws may not be vetoed by the executive power and shall come into force as soon as the electorate specially convoked on the date prescribed in such laws shall have expressed their approval by absolute majority of the votes cast, and they shall be promulgated by the president of the General Assembly.

E. If the convocation of the electorate for ratification of amendments, in the cases of paragraphs A, B, C, and D, coincides with any election of members of state agencies, the citizens may express their will concerning the constitutional amendments on ballots separate and apart from the electoral lists. When the amendments submitted to plebiscite relate to election to elective offices, the voting for such offices shall be both by the system proposed and by the system existing, and the plebiscitary decision shall be final.

Art. 282. The provisions of the present Constitution which recognize individual rights, as well as those which confer powers and impose duties on public authorities, shall not be without effect by reason of the absence of applicable regulations, but such regulations shall be supplied on the basis of analogous laws, general principles of justice, and generally accepted doctrines.

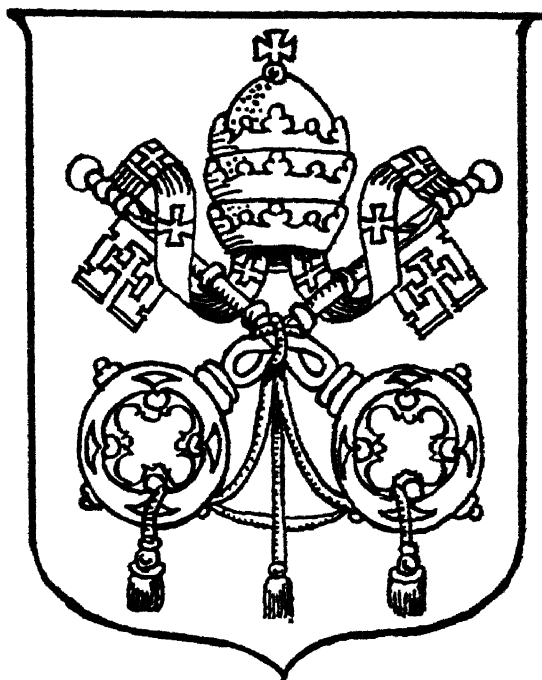
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VATICAN CITY

SUMMARY

INTERNATIONAL STATUS

For many centuries, until 1871, the popes held temporal sovereignty over the Papal States, an area of some 16,000 square miles. This territory was incorporated into Italy when it became unified and the Pope's authority was restricted to the palaces of the Vatican and Lateran in Rome and the villa of Castel Gandolfo. The situation was unsatisfactory to the Papal State, and final settlement came in 1929 when treaties were signed regarding the area and sovereignty.

The Vatican City is a member of the Postal Union and the Telecommunications Union.¹

¹ See Table I.

As it is the abode of the popes, it remains neutral in all conflicts between nations and was neutral during World War II.

FORM OF GOVERNMENT

The government of the City is based upon:

(1) The Lateran Treaty of February 11, 1929 which guarantees to the Holy See "full ownership, exclusive and absolute power, and sovereign jurisdiction" over its territory; sets up the City of the Vatican; and outlines the extent of its territory¹;

(2) The Concordat between the Holy See and Italy of the same date, containing religious provisions and agreements; and

(3) The Constitutional Laws of June 7, 1929, including the Fundamental Law; the Law on the Sources of the Law; the Law on the Rights of Citizenship and Sojourn; the Law on Administrative Organization; the Law on Economic, Commercial and Professional Organization; and the Law of Public Security.

These set up a unique type of monarchical-sacerdotal state in which governmental functions are vested in the Pope.

SOURCE OF SOVEREIGN POWER

All power belongs to the Pope².

RIGHTS OF THE PEOPLE

The Law on the Rights of Citizenship and Sojourn merely states who are Vatican citizens and places certain limitations on the rights of residence and entry into the city.

LEGISLATIVE DEPARTMENT

Legislative power is vested in the Pope or, during a vacancy in the pontifical see, in the Holy College³. He may delegate certain legislative powers to the governor of the State, appointed by him, who, for the promulgation of laws, rules or ordinances, should take the advice of the general counsellor of the State⁴, also appointed by the Pope⁵.

Where there is no provision in the laws of the Vatican, the laws of the Kingdom of Italy are applied⁶.

EXECUTIVE DEPARTMENT

Executive power is vested in the Pope⁷ and he may delegate it to the governor⁸.

JUDICIAL DEPARTMENT

Judicial power is vested in the Pope⁹ and is delegated by him to single judges, a tribunal of first instance, the Sacred Roman Rota which has the

¹ Lateran Treaty, Arts. 3, 14.

⁴ *Id.*, Art. 5.

⁷ *Constit. Law* 1, Art. 1.

² *Constit. Law* 1, Arts. 1, 2.

⁵ *Id.*, Art. 8.

⁸ *Id.*, Art. 6.

³ *Id.*, Art. 1.

⁶ *Constit. Law* 2, Art. 3.

⁹ *Id.*, Art. 1.

function of a court of appeals, and the Supreme Tribunal of the Signature.¹ The Pontiff appoints all judicial personnel.

AREA, POPULATION, LANGUAGE

The Vatican City has an area of .16 square miles and extraterritorial rights in certain buildings in Rome. The population is about 1,025.

Agreement between the Holy See and the Kingdom of Italy of the 11th of February, 1929

TREATY OF THE LATERAN

In the name of the Holy Trinity:

INASMUCH AS the Holy See and Italy have recognized the necessity of setting aside all causes of difference existing between them and of arriving at a definitive settlement of their reciprocal relations which would be in accordance with justice and the dignity of the two high parties and which, while assuring to the Holy See in a stable manner a situation of fact and of law that would guarantee to it absolute independence for the accomplishment of its high mission in the world, would also permit the Holy See to recognize that the "Roman question," originating in 1870 from the annexation of Rome to the Kingdom of Italy under the dynasty of the House of Savoy, is resolved in a definitive and irrevocable manner; and

As it is necessary, in order to assure to the Holy See absolute and visible independence, to guarantee to it unquestionable sovereignty even in the international domain, and the necessity is therefore apparent of constituting the "City of the Vatican" with special characteristics by recognizing the full ownership, exclusive and absolute power, and sovereign jurisdiction of the Holy See over this territory:

Art. 1. Italy recognizes and reaffirms the principle consecrated in Article 1 of the Statute of the Kingdom dated March 4, 1848, by virtue of which the Catholic, apostolic, and Roman religion is the only religion of the State.

Art. 2. Italy recognizes the sovereignty of the Holy See in the international domain as an attribute inherent in its nature, in accordance with its tradition and with the requirements of its mission in the world.

Art. 3. Italy recognizes that the Holy See has full ownership, exclusive and absolute power, and sovereign jurisdiction over the Vatican, as it is at present constituted with all its dependencies and endowments, creating thus the City of the Vatican for its special ends and with the characteristics set forth in the present Treaty. The limits of the said city are indicated on the plan which constitutes Annex 1 of the said Treaty of which it forms an integral part.

¹ Constit. Law I, Art. 10.

It is, moreover, understood that Saint Peter's Square, while it forms a part of the City of the Vatican, will continue to be normally open to the public and subject to the police powers of the Italian authorities; these will stop at the foot of the stairs of the Basilica, although that will continue to be destined for public worship, and they will abstain from mounting or entering the Basilica except in the case of being invited to intervene by the competent authority.

In case the Holy See, in view of particular ceremonies, should deem it advisable to suspend temporarily the free passage of the public, through Saint Peter's Square, the Italian authorities, unless invited to remain by the competent authority, will retire beyond the exterior lines of the colonnade of Bernini and of their extension.

Art. 4. The exclusive sovereignty and jurisdiction of the Holy See which Italy recognizes over the City of the Vatican implies the consequence that no interference on the part of the Italian government may be there manifested, and that there will be no other authority than that of the Holy See.

Art. 5. For the execution of all that is established in the preceding Article, the territory constituting the City of the Vatican should be, through the care of the Italian government, before the present Treaty becomes effective, rendered free of all servitude and of its eventual occupants. The Holy See will watch over the closing of access, by surrounding the open parts outside Saint Peter's Square with a wall.

It is further agreed that in that which concerns the immovable and existing things belonging to the religious institutes or bodies, the Holy See will make provision directly for the regulation of its relations with them, the Italian state taking no further interest therein.

Art. 6. Italy will provide, by the necessary arrangements with interested organisms, that the City of the Vatican be assured in its own right of an adequate provision of water.

It will provide also for placing the city in communication with the railroads of the state by means of a railroad station in the City of the Vatican at the place indicated on the plan mentioned above [Annex 1] and by means of the circulation of carriages belonging to the Vatican on the Italian railroads.

It will provide, furthermore, for connections directly with the other states the telegraphic, telephonic, radiotelegraphic, radiotelephonic, and postal services of the City of the Vatican.

Finally, it will provide also for connection with the other public services.

All the above services will be provided at the cost of the Italian state and within one year from the entrance into effect of the present Treaty.

The Holy See will provide, at its own expense, for the maintenance of the existing entrances to the Vatican and those which it shall deem advisable to open hereafter.

Agreements will be made between the Holy See and the Italian state for the circulation on the territory of the latter of terrestrial vehicles and airplanes of the City of the Vatican.

Art. 7. The Italian government agrees that it will not permit, in the territory surrounding the Vatican City, new construction which would overlook its interior, and that to this end it will proceed to the partial demolition of the structures already existing at Cavalleggeri Gate along the Via Aurelia and the Viale Vaticano.

In accordance with the rules of international law, airplanes of any kind are forbidden to fly over the territory of the Vatican.

On Rusticucci Square and in the parts adjacent to the colonnade to which the extraterritoriality mentioned in Article 15 does not extend, all changes for purposes of town planning or improvement which might interest the City of the Vatican will be made by common accord.

Art. 8. Italy, considering as sacred and inviolable the person of the Sovereign Pontiff, declares any attack upon him or provocation of an attack punishable under threat of the same penalties established for an attack or provocation of attack upon the person of the King.

Public offenses and injuries committed on Italian territory against the person of the Sovereign Pontiff by speech, acts, or writing are punished as offenses and injuries against the person of the King.

Art. 9. In accordance with the rules of international law, all persons having a permanent residence in the City of the Vatican are subject to the sovereignty of the Holy See. This residence is not lost by the simple fact of a temporary residence in another place, unless this fact is accompanied by the loss of domicile in the city itself or by other circumstances proving the abandonment of the said domicile.

When they cease to be subject to the sovereignty of the Holy See, the persons mentioned in the preceding paragraph and who, by terms of the Italian law, apart from the circumstances of fact stated above, would not be considered as possessing another citizenship, will be considered in Italy with no further formality as Italian citizens.

To these same persons, as long as they remain subject to the sovereignty of the Holy See, there shall be applicable in the territory of the Italian Kingdom, in the determination of questions governed by the personal (when such questions are not regulated by standards emanating from the Holy See), the provisions of the Italian law, or if the person concerned is considered as having a different citizenship, the laws of the state to which he belongs shall be applicable.

Art. 10. The dignitaries of the Church and persons belonging to the pontifical court, who shall be indicated in a table on which the high contracting parties will agree, even when they are not citizens of the Vatican, are always and in every case, in relation to Italy, exempt from military service, from jury service, and from any requirement of a personal character.

This provision applies also to career officers declared by the Holy See to be indispensable, attached permanently and with a fixed salary to the services of the Holy See, as well as to the courts and offices indicated below in Articles 13, 14, 15 and 16 which exist outside the City of the Vatican. These officers shall be indicated on another table which should be established as above by common accord and which each year shall be brought up to date by the Holy See.

The ecclesiastics who, by reason of their office, take part, outside the City of the Vatican, in the execution of the acts of the Holy See may not, by reason of their office, be the object of any accusations, inquiry, or molestation on the part of the Italian authorities.

Every foreigner invested with an ecclesiastical office in Rome enjoys the personal guaranties accorded to Italian citizens by virtue of the laws of the Kingdom.

Art. 11. The central organisms of the Catholic Church are free from all interference on the part of the Italian state (reserving the dispositions of Italian laws concerning the acquisitions of legal persons) as well as from conversion of their immovable property.

Art. 12. Italy recognizes in the Holy See the power of active and passive legation according to the general rules of international law.

Envoys of foreign governments to the Holy See will continue to enjoy in the Kingdom all the prerogatives and immunities belonging to diplomatic agents according to international law, and their residences may continue to be on Italian territory; they shall enjoy the immunities due them according to international law even if their countries do not have diplomatic relations with Italy.

It is understood that Italy promises to leave free, always and in every case, the correspondence between all states, including belligerents, and the Holy See and vice versa, as well as the access of bishops of the whole world to the Apostolic See.

The high contracting parties engage to establish between themselves normal diplomatic relations by accrediting to the Holy See an Italian ambassador and to Italy a papal nuncio, who will be the head of the diplomatic corps under the terms of the customary law recognized by the Congress of Vienna in the Act of June 9, 1815.

As an effect of the recognition of sovereignty, and without prejudice to that fixed in Article 19 below, the diplomatic agents of the Holy See and the couriers sent in the name of the Sovereign Pontiff shall enjoy in Italian territory, even in time of war, the same treatment as that due according to the rules of international law to the diplomatic agents and cabinet couriers of other foreign governments.

Art. 13. Italy recognizes in the Holy See the full ownership of the patriarchal basilicas of Saint John Lateran, of Saint Mary the Greater and of Saint Paul with the annexed buildings (Annex II, 1, 2 and 3).

The state transfers to the Holy See the free management and administration of the said basilica of Saint Paul and of the monastery attached, turning over also to the Holy See the capital corresponding to the sums fixed annually in the budget of the minister of public instruction for the said basilica.

It is also understood that the Holy See has free ownership of the building depending on Saint Calliste, close to Saint Mary of Trastevere (Annex II, 9).

Art. 14. Italy recognizes in the Holy See full ownership of the pontifical palace of Gandolfo Castle, with all its endowments, appurtenances, and dependencies (Annex II, 4) such as are already in possession of the same Holy See, and at the same time it is obliged to grant, also in full ownership, delivery to be effected within six months from the coming into force of this Treaty, the Villa Barberini, at Gandolfo Castle, with all its endowments, appurtenances, and dependencies (Annex II, 5).

To complete the ownership of the real property situated on the north side of Janiculum belonging to the Sacred Congregation of Propaganda and to other ecclesiastical institutes and having a view toward the Vatican palaces, the state engages to transfer to the Holy See or to the entities indicated by it the real property of the domains of the state or of individuals existing in the said zone. The real property belonging to

the said congregation and to the other institutes and those to be transferred are indicated in the annexed plan (Annex II, 12).

Italy, finally, transfers to the Holy See, in full and free ownership, the ex-conventual buildings of Rome attached to the basilica of the Twelve Holy Apostles and to the churches of Saint Andrew della Valle and of Saint Charles ai Catinari, with all their annexes and dependencies (Annex III, 3, 4 and 5) and to deliver them free of their occupants, within the space of one year from the coming into force of the present Treaty.

Art. 15. The real property indicated in Article 13 and in paragraphs 1 and 2 of Article 14, as well as the palaces of the Dater, of the Chancellery, of the Propaganda, Spanish Square, the Palace of the Holy Office and the adjacent real property, that of the Convertendi (present seat of the Congregation of the Eastern Church), Scossacavalli Square, the Palace of the Curacy (Annex II, 6, 7, 8, 10 and 11), and the other buildings in which the Holy See shall in future deem it advisable to organize other courts, although within the territory of the Italian state, shall enjoy the immunities recognized by international law for residences of diplomatic agents of foreign states.

The same immunities apply also with regard to the other churches, even outside Rome, during the time when, even though not open to the public, ceremonies are being celebrated in the presence of the Sovereign Pontiff.

Art. 16. The real property indicated in the three preceding articles as well as the seats of the following pontifical institutes: the Gregorian University, the Biblical, Oriental, and Archaeological Institutes, the Russian Seminary, the Lombard College, the two Palaces of Saint Apollinaris and the House of Exercises for the Clergy of Saints John and Paul (Annex III, 1 *bis*, 2, 6, 7, 8) shall never be subject to servitudes or expropriations by reason of public utility unless there is a previous agreement with the Holy See, and they shall be exempt from taxes either ordinary or extraordinary, on the part of the state as well as of any other entity.

It is in the power of the Holy See to give all the real property above indicated, in the present Article and in the three preceding Articles, arrangements of its own accord, without the necessity of authorization or consent on the part of Italian governmental, provincial or communal authorities, which may rely in full security upon the noble artistic traditions which are the honor of the Catholic Church.

Art. 17. The payments of whatever nature due by the Holy See, by the other central organizations of the Catholic Church, and by the organizations managed directly by the Holy See, even outside Rome, to dignitaries, employed and salaried, whether they have permanent office or not, shall be exempt on Italian territory, beginning January 1, 1929, from all taxes whatsoever of the state or of any other administration.

Art. 18. The treasures of art and science in the City of the Vatican and the Lateran Palace shall be accessible to scholars and to visitors, the Holy See reserving to itself the full liberty of regulating the entrance of the public.

Art. 19. The diplomatic agents and envoys of the Holy See, the diplomatic agents and envoys of foreign governments to the Holy See, and the dignitaries of the Church coming from abroad to go to the City of the Vatican and provided with passports of the states from which they come vised by the pontifical representatives abroad, may without other for-

mality proceed to this city across Italian territory. It will be the same for the above persons who, furnished with a pontifical passport in order, proceed abroad from the Vatican City.

Art. 20. Merchandise coming from abroad and sent to the City of the Vatican or, outside the latter, to the institutes or offices of the Holy See shall always be admitted, from any point on the Italian frontiers or from any port in the Kingdom, to cross Italian territory with full exemption from customs and tolls.

Art. 21. All the cardinals shall enjoy in Italy the honors due to princes of the blood; those who reside in Rome, even outside the City of the Vatican, are citizens of this city, with all the effects resulting therefrom.

During the vacancy of the pontifical seat, Italy will see to it in a special manner that there is no obstacle to the free passage and access of cardinals across Italian territory to the Vatican, and that no hindrance or limitation is placed on their personal liberty.

Italy will also see to it that on its territory, in the vicinity of the City of the Vatican, acts capable of troubling in any manner the meetings of the conclave shall not be committed.

These rules are valid also for conclaves that are held outside the City of the Vatican, as well as for the councils presided over by the Supreme Pontiff or by his legates, and as regards the bishops called to participate therein.

Art. 22. Upon the demand of the Holy See, and by means of a delegation which it may establish in each case or in a permanent manner, Italy will be responsible in its territory for the punishment of crimes committed in the City of the Vatican; but, when the author of the crime has taken refuge in Italian territory, he shall be prosecuted without further formality according to the rules of Italian law.

The Holy See will return to the Italian state persons who may have taken refuge in the City of the Vatican, being accused of acts committed in Italian territory and recognized as criminal by the laws of both states.

The same procedure shall be followed as regards persons accused of crimes who may have taken refuge in the buildings which enjoy immunity according to Article 15, unless those in charge of the said buildings prefer not to invite the Italian agents to enter for the purpose of arresting the said persons.

Art. 23. For the execution within the Kingdom of sentences rendered by the tribunals of the City of the Vatican the rules of international law shall be applied.

On the other hand, the sentences and measures emanating from the ecclesiastical authorities and officially communicated to the civil authorities, on the subject of ecclesiastical or religious persons, in spiritual or disciplinary matters shall have, without other formality, full juridical, effectiveness in Italy with even all their civil effects.

Art. 24. The Holy See, so far as concerns the sovereignty belonging to it in the international domain, declares that it wishes to remain and will remain removed from the temporal competitions among other states and from international meetings convoked with such a purpose, unless the parties to a dispute make a unanimous appeal to its mission of peace, reserving to itself, however, the right to assert in every case its moral and spiritual power.

In consequence the City of the Vatican shall always and in every case be considered as neutral and inviolable territory.

Art. 25. By a special convention signed at the same time as the present Treaty, constituting Annex IV of the said Treaty and forming an integral part thereof, the liquidation of the debts of Italy to the Holy See is provided for.

Art. 26. The Holy See affirms that, by the agreement signed today, it possesses in an adequate manner all that is necessary to watch over the liberty and independence due to the pastoral government of the diocese of Rome and of the Catholic Church in Italy and in the world; it declares that the "Roman question" is definitively and irrevocably resolved and therefore eliminated, and it recognizes the Kingdom of Italy under the dynasty of the House of Savoy with Rome as capital of the Italian state.

On its side, Italy recognizes the state of the City of the Vatican under the sovereignty of the Sovereign Pontiff.

Law 214 of May 13, 1871, is abrogated as well as every other disposition contrary to the present Treaty.

Art. 27. The present Treaty, within a period which shall not exceed four months from the time of signature, shall be submitted to the ratification of the Sovereign Pontiff and of the King of Italy and shall become effective from the act of exchange of ratifications.

ANNEX 1. Territory of the City of the Vatican

ANNEX 2. Immovables enjoying the privilege of extraterritoriality with exemption from expropriations and taxes

ANNEX 3. Immovables exempt from expropriations and taxes

ANNEX 4. Financial Convention

CONCORDAT BETWEEN THE HOLY SEE AND ITALY

February 11, 1929

(Extracts)

IN THE NAME of the Most Holy Trinity:

Inasmuch as, from the beginning of the negotiations between the Holy See and Italy to resolve the "Roman question" the Holy See itself has proposed that the negotiations relative to this question have as a necessary complement a concordat destined to regulate the conditions of religion and of the Church in Italy . . .

Art. 1. Italy, by the terms of Article 1 of the Treaty, assures to the Catholic Church the free exercise of spiritual power, the free and public exercise of worship, as well as that of its jurisdiction in ecclesiastical matters, according to the rules established in the present Concordat; where it may be necessary, it accords to ecclesiastics, for acts of their spiritual ministry, the protection of the authorities.

In consideration of the sacred character of the eternal city, episcopal seat of the Sovereign Pontiff, center of the Catholic world and objective of pilgrimage, the Italian government will take care to forbid in Rome anything which might be inconsistent with this character.

Art. 2. The Holy See communicates and corresponds freely with the bishops, with the clergy, and with all the Catholic world, without any interference from the Italian government.

Art. 22. Ecclesiastics who are not Italian citizens may not be invested with benefices existing in Italy. The heads of dioceses and of parishes should also speak the Italian language. In case of need, they must have coadjutors who, in addition to Italian, understand and speak the language of local usage with the purpose of giving religious aid in the language of the faithful, according to the rules of the Church.

Art. 29. The Italian state will revise its legislation regarding ecclesiastical matters in order to reform and complete it and place it in harmony with the directives which inspire the Treaty with the Holy See and the present Concordat. It is, from the present agreed . . . [dispositions relative to the juridical personality of the recognized ecclesiastical bodies and of the public churches, of religious associations with or without vows approved by the Holy See, of brotherhoods exclusively or principally for religious purposes; to the recognition of religious foundations of all kinds; to the composition, half monastic, of civil administrations of ecclesiastical property, etc.]

Art. 34. The Italian state wishing to give again to the institution of marriage, which is the basis of the family, a dignity conforming to the Catholic traditions of its people, recognizes the civil effects of the sacrament of marriage regulated by canon law. . . . Cases concerning the nullity of marriages and the dispensation of marriages ratified and not consummated are reserved to the competence of ecclesiastical tribunals and courts. The decisions and sentences on the question, when they have become definitive, shall be taken to the supreme tribunal of the Signature, which will ascertain whether the rules of canon law relative to the competence of the judge, to the citation and legitimate representation, or to the contumacy of the parties have been respected. The said definitive decisions and sentences, with the decrees and pertinent records of the supreme tribunal of the Signature, shall be transmitted to the state court of appeal which is competent for the territory, and which, by ordinance in chamber of council, shall have them executed in their civil effects and order their notation on the registers of civil status in the margin of the marriage record.

In cases of legal separation, the Holy See consents to whatever may be decided by the civil judicial authority.

Art. 35. For schools of secondary instruction kept by ecclesiastical or religious bodies, the institution of state examination remains obligatory, in order that there may be effective equality of situation between the candidates of the said schools and those of governmental institutes.

Art. 36. Italy considers the teaching of the Christian doctrine according to the form received from the Catholic tradition as the base and crown of public instruction. In consequence it agrees that the religious instruction now given in the elementary public schools shall receive a further development in the secondary schools according to a program to be established by agreement between the Holy See and the state.

This instruction shall be given by masters or professors, priests or brothers, approved by the ecclesiastical authority, and subsidiarily by lay masters and professors holding for this purpose a certificate of capacity to be granted by the diocesan ordinary, the revocation of the said certificate by this ordinary suppressing without other formality the power to teach.

Only the manuals approved by the ecclesiastical authority shall be accepted for the said religious instruction in the public schools.

Art. 37. The directors of state associations for physical education and military preparation, of guard-ships and *Balillas*, in order to render possible religious instruction and attendance for the youth confided to their care, will regulate their hours so as not to impede the performance of religious duties on Sundays and prescribed feast days.

The directors of the public schools will do the same as regards possible meetings of students on feast days.

Art. 41. Italy authorizes the wearing in the kingdom and colonies of the pontifical decorations of orders of chivalry, subject to registration of the documents of appointment upon presentation of the said documents and the written request of the interested party.

Art. 42. Italy will recognize, by royal decree, titles of nobility conferred by the Sovereign Pontiffs after 1870 and in the future.

The cases shall be established in which the said recognition shall not be subject to the payment of a tax in Italy.

Art. 43. The Italian state recognizes the organizations dependent on the Italian Catholic Action, insofar as the latter, pursuant to the decision of the Holy See, develop their activity outside of any political party and under the immediate authority of the hierarchy of the Church for the diffusion and effectuation of Catholic principles.

The Holy See takes the occasion of the stipulation of the present Concordat to renew the prohibition to all ecclesiastics and monks to inscribe themselves or be active in any political party whatever.

Art. 44. If in the future any difficulty arises in the interpretation of the present Concordat, the Holy See and Italy will proceed by common accord to an amicable solution of the question.

Art. 45. With the coming into effect of the present Concordat the provisions of the concordats, which have fallen into disuse, with the former Italian states, shall cease to apply in Italy. The Austrian laws and the laws, regulations, ordinances and decrees of the Italian state now in effect, in so far as they are contrary to the provisions of the present Concordat, are considered as abrogated from the date of its coming into effect.

CONSTITUTIONAL LAWS OF THE CITY OF THE VATICAN

June 7, 1929

1. FUNDAMENTAL LAW OF THE CITY OF THE VATICAN

Art. 1. The Sovereign Pontiff, sovereign of the City of the Vatican, has full legislative, executive, and judicial powers.

During a vacancy in the pontifical see, these same powers belong to the Holy College, which may promulgate legislative dispositions only in cases of urgency, these dispositions having effect only during the period of the vacancy, unless they are later confirmed by the Sovereign Pontiff elected according to the rules of the sacred constitutions.

Art. 2. Reserved to the Sovereign Pontiff is the fullness of the powers which belong to him, as regards the organs and tribunals of the Apostolic

See, according to Canons 7, 230-270, 1597-1607 of the *Codex iuris canonici*, and all that prescribed in Article 14 of the present law with respect to the said tribunals, and also as regards his court, including the noble, Palatine and Swiss guards, subject, as to the last mentioned, to the provisions of Article 7 of the present law.

Also depending directly on the Sovereign Pontiff are the administration of the property of the Holy See, the special administration of the Holy See, the library and the archives of the Vatican, the printing office, and the book shop.

Art. 3. Reserved to the Sovereign Pontiff is the representation of the state of the Vatican, by the intermediary of the Secretary of State, for the conclusion of treaties and for diplomatic relations with foreign states.

Art. 4. The approval of the administrative budgets and accounts of the City of the Vatican is reserved to the Sovereign Pontiff. These shall be presented to him by the governor upon the advice of the general counsellor of the state.

Art. 5. The Sovereign Pontiff, in that which concerns the government of the City of the Vatican, subject to the exceptions mentioned in the preceding articles, reserves to himself the right to delegate his legislative powers in certain matters or for special objects to the governor of the state.

Apart from express delegation, the governor, for all that affects the government of the City of the Vatican, has likewise the right to issue regulations and ordinances for the execution of laws, without, however, being able to derogate from them or grant exemptions from them.

For the promulgation of the laws for which he is delegated, and of regulations or ordinances, the governor, unless there are provisions to the contrary, should take the advice of the general counsellor of the state.

Art. 6. To the governor of the state, subject to the exceptions and limitations fixed in the preceding Articles 2, 3, and 4, is delegated the exercise of the executive power. Excepted from this delegation are the acts which are reserved to the Sovereign Pontiff and those which he may deem it advisable to reserve to himself.

Art. 7. The governor of the state is appointed and relieved of his functions by the Sovereign Pontiff, to whom he is directly and exclusively responsible.

The corps of pontifical gendarmes is under the direct control of the governor who may, for purposes of security and order, require also and in the necessary measure the assistance of the Swiss Guard.

Art. 8. The consultative organ of the City of the Vatican is the counsellor general of the state.

He is appointed and revoked by the Sovereign Pontiff, to whom he is directly and exclusively responsible. He is obliged to give advice at all times prescribed by law and when required by the Sovereign Pontiff or the governor.

Art. 9. The judicial power is delegated to the organs indicated in the following articles, which exercise it in the name of the Sovereign Pontiff.

Art. 10. The judicial power in civil matters, in cases not coming before a single judge, and in penal matters, for the judgment of crimes, is normally exercised by a tribunal of first instance and by the Sacred Roman Rota having the function of a court of appeal; in extraordinary cases, recourse is had to the supreme tribunal of the Signature.

The tribunal of first instance is composed of a president, two regular judges, and an alternate.

The appointment and revocation of the judicial personnel are reserved to the Sovereign Pontiff. The disciplinary power is exercised by the supreme tribunal of the Signature.

Art. 11. The functions of a single judge in civil matters are usually performed by the president of the tribunal of first instance or by one of the judges, designated by him, of the same tribunal.

Art. 12. In penal matters, for infractions, jurisdiction is usually exercised by one or more administrative officers designated by the governor.

In cases in which the sentences, in matters of infractions, are, according to the laws above indicated, susceptible of appeal, the judge of appeal is the president of the tribunal of first instance or another judge designated by him, all further recourse being impossible.

Art. 13. In the tribunal of first instance, the president confides the functions of examining magistrate to one of the judges of the tribunal, at the beginning of each year; those of state's attorney and solicitor are, upon the designation of the dean of the Sacred Roman Rota, performed by a consistorial advocate.

Art. 14. The Sacred Roman Rota and the supreme tribunal of the Signature, when they function as judicial organs of the City of the Vatican, must accomplish their acts within the limits of the territory of the city.

Representation and defense before the judicial organs of the state of the Vatican are reserved to consistorial advocates, except as prescribed on the subject of representation and defense before a single judge in a civil matter and before the judge of infractions.

Art. 15. When an administrative act injures a right, an action may be filed before the judicial authority, which, even though it deems the act unlawful, may neither annul nor modify it, but only judge its effects and, if there are grounds, decide upon the obligation of repairing the damage.

Art. 16. In any case, whoever thinks himself damaged in one of his rights or interests by an administrative act may address a petition to the Sovereign Pontiff through the general counsellor of the state.

Art. 17. In every civil or penal case, and in all the phases of the case, the Sovereign Pontiff may refer the trial and judgment to a special commission with power to render a sentence conforming to equity and to exclude all further recourse.

Art. 18. The right to grant pardons, amnesties, dispensations, and abatements is always reserved to the Sovereign Pontiff.

Requests for pardon are transmitted through the general counsellor of the state.

Art. 19. The flag of the City of the Vatican consists of two fields divided vertically, a yellow field on the staff side and a white field on the other side, which bears the tiara and the keys, the whole following the model A annexed to the present law.

The shield shows the tiara with the keys, according to the model B annexed to the present law.

The seal bears in the center the tiara and the keys, and on the circumference the words "State of the City of the Vatican," according to the model C annexed to the present law.

Art. 20. The standards and customs observed heretofore by the Holy See regarding titles of nobility and orders of chivalry remain effective.

Art. 21. The present law shall become effective on the day of its publication.

2. LAW ON THE SOURCES OF THE LAW

Art. 1. The principal sources of objective law in the state of the City of the Vatican are:

(a) The *Codex iuris canonici* and the apostolic constitutions:

(b) The laws promulgated for the City of the Vatican by the Sovereign Pontiff or by any other authority delegated by him, as well as the regulations lawfully issued by the competent authority.

Art. 2. The laws and regulations indicated under letter (b) of the preceding Article are deposited in the archives of the government and published in a supplement of *Acta Apostolicae Sedis*, except for particular cases where a different form of publication may be prescribed in the laws or regulations themselves, and subject to the provisions of Article 24 of the present law.

The publication bears the date on which the laws and regulations have been issued and a special order number for each pontificate.

These laws and regulations become effective the seventh day after their publication, unless by the nature of their objects they should not be immediately executed, or unless a shorter or longer delay is expressly fixed in the law or regulation.

Art. 3. For matters not provided for in the sources enumerated in Article 1 and until provision concerning such matters is made by the laws of the City of the Vatican, there shall be applied, in a supplementary manner the laws promulgated by the Kingdom of Italy up to the effective date of the present law, together with the general regulations and the local regulations of the province and government of Rome, indicated in the following articles with the modifications and limitations specified in these articles, always with the reservation that these laws and regulations are not contrary to the precepts of the divine law, to the general principles of canon law, nor to the clauses of the treaty and the concordat stipulated between the Holy See and the Kingdom of Italy on the eleventh of February, 1929, and that they are applicable in the City of the Vatican with due regard to the situation there existing.

Art. 4. With the reservations expressed in the preceding Article, there shall be observed in the City of the Vatican the penal code at present in force in the Kingdom of Italy, together with the laws which have modified or completed it by pertinent regulations, up to the coming into force of the present law.

Whoever commits in the territory of the City of the Vatican an act directed against the life, integrity, and personal liberty of the king, the regent, the queen, the crown prince of any foreign state whatsoever of a monarchical form of government, against the chief of a foreign state that is not monarchical, against the chief of the government of the Kingdom of Italy or of any other state, shall be punished by the same penalty as that which would be applicable if the acts had been committed on the territory of the state to which the person against whom the attack was directed belongs.

The penalty to which the person is liable who, on the territory of the City of the Vatican, makes an attempt against the life, integrity, or personal liberty of the Sovereign Pontiff is that provided in Article 1 of Law No. 2008 of the Kingdom of Italy of November 25, 1926.

Art. 5. When the penalty fixed for any offense is simply pecuniary, the accused is always authorized to stay the course of the penal action by offering a sum of which the amount shall be fixed, within the limits between the maximum and minimum of the penalty incurred, through the consistorial lawyer in charge of the function of the public ministry or through any other authority provided for by law.

This rule is applicable to infractions even when there is an option between a pecuniary penalty and deprivation of personal liberty. The amount of the offer is fixed, in such case, by the judge of infractions or by any other functionary designated by law.

In cases where the accused is a foreigner and the penalty fixed for the offense is, at the option of the delinquent, a pecuniary penalty or deprivation of personal liberty, the judge may not apply the first of these penalties unless the accused offers, before all proceedings, appropriate guaranty for the payment of the maximum of the pecuniary sum, either by deposit of a sum equal to such guaranty or in the form of a pledge, a personal bond, a letter of exchange, or the guaranty of a Vatican citizen.

Art. 6. For offenses punished by a pecuniary penalty under the laws issued in the City of the Vatican, the commutation of the pecuniary penalty to a penalty restrictive of personal liberty, in the cases provided for by the penal code of the Kingdom of Italy, shall be calculated at the rate of one day of deprivation of personal liberty for each part of the unpaid sum equal to fifty lire or fraction of fifty lire.

Art. 7. With the reservations specified in Article 3, there shall be observed in the City of the Vatican the code of penal procedure now in effect in the Kingdom of Italy, as well as the laws which have modified or completed it and the pertinent regulations up to the coming into force of the present law. Exception is made with respect to the competence of tribunals, which is regulated by the fundamental law and the present law, and there is also reserved, according to the tenor of the treaty between the Holy See and the Kingdom of Italy of the eleventh of February, 1929, the power to delegate the exercise of penal procedure as regards offenses committed against the authorities of the same Kingdom.

Art. 8. For any offense whatsoever, and even for infractions, a foreigner accused may be arrested, even apart from cases of flagrant offense, on an order of summons, and provisional liberty may be accorded him only if he deposits a security in the forms indicated in the last paragraph of Article 5.

The security, if the penalty is pecuniary, may not be less than the maximum of the penalty.

Art. 9. Any perpetrator of an infraction taken in flagrant offense by an officer or agent of the judicial police is arrested and immediately conducted before the judge of infractions; also brought before him are the witnesses present whom the officer or agent deems it necessary to summon or whom the accused himself designates.

The judge fixes the sum which may be offered as security, and the payment of this sum ends the penal action *ipso facto*.

When no offer is made to the judge, unless the accused demands an adjournment, and the judge recognizes the merits of the reasons stated for the adjournment, the accused, if he is a foreigner, deposits security fixed according to the terms of the last paragraph of Article 5 or is subjected to preventive imprisonment; after which the proceedings continue according to the general rules following:

- (a) The judge has as clerk of the court an officer of the government whom he chooses in each case;
- (b) The judge appoints another officer of the government as state's attorney, and, if the accused has not the means or the time to choose a defender, appoints, of his own motion, as defender a consistorial advocate or any other person present or immediately available whom he deems capable of performing this function;
- (c) The witnesses are heard under oath;
- (d) An official report is drafted;
- (e) The sentence is thereupon read in its entirety and immediately published with its preamble and its terms;
- (f) The appeal, if it is receivable, is entered at the same hearing upon a declaration made to the clerk of the court.

The judgment of appeal before the president of the tribunal of first instance, when the judgment before the judge of infractions has occurred according to the summary procedure above indicated, must take place, with a corresponding summary procedure, within the five days which follow the sentence of the first degree.

If the judgment of appeal is not rendered within the time above indicated, the accused who has been arrested may be placed in provisional liberty even without security.

When the above mentioned summary procedure is not followed, the prescriptions of the code of penal procedure of the Kingdom of Italy, as well as the modifications of these prescriptions by communal regulations in matters of infractions, are applied as far as possible even in the judgment of infractions. The procedure by decree may be applied only to Vatican citizens.

Art. 10. The special provisions established for foreigners in the preceding articles do not apply to those whose state of origin has concluded with the City of the Vatican a treaty by which sentences to a pecuniary penalty pronounced by the Vatican tribunals are executed by means of coercive recovery or, in default of payment, by means of a commutation of a pecuniary penalty to a penalty restrictive of personal liberty in the territory of that state.

Art. 11. Under the reservations specified in Article 3, there shall be observed in the City of the Vatican the civil code of the Kingdom of Italy and the laws which have modified or completed it, as well as the pertinent regulations, up to the coming into effect of the present law, subject to the following modifications:

- (a) Vatican citizenship is regulated, in conformity with the treaty between the Holy See and the Kingdom of Italy, by Law No. 3 of this day;
- (b) The capacity to accomplish a juridical act, to acquire and dispose of property by contract among the living or upon the decease of clerks and monks who are Vatican citizens is regulated by the canon law;
- (c) Marriage is also exclusively regulated by the canon law;
- (d) Adoption is authorized by the Sovereign Pontiff;

(e) Prescription, with respect to ecclesiastical property, remains regulated by canons 1508 to 1512 of the *Codex iuris canonici*, with the further observation of the clauses of canon 63 §2 of the same code;

(f) Gifts as well as legacies upon death in favor of pious works are regulated by canons 1513 to 1517 of the same code;

(g) The records of birth, marriage, and death are drawn up on the occasion of the baptism, marriage, or funeral ceremony and kept by the priest, who sends a copy to the governor;

(h) The registers of citizenship and of civil status are kept by the governor, through a bureau designated for this purpose;

(i) The functions of notary are performed by consistorial advocates appointed by the governor, the notarial legislation of the Kingdom of Italy being observed, subject to Article 3; the notarial archives shall be kept at the seat of the government;

(j) The functions of recorder of mortgages, in accordance with the mortgage transcriptions and inscriptions, are fulfilled by a bureau of the government, which also provides for the keeping and preservation of the register of real property, always according to Italian legislation, with the usual reservations. In appropriate cases the government arranges with competent bureaus of the Italian conservator of mortgages and register of the survey of lands to settle provisionally questions of mortgage and land transcriptions and inscriptions, and for the transfer of registers or records relating thereto.

Art. 12. Under the reservations specified in Article 3 there shall be observed in the City of the Vatican the commercial code of the Kingdom of Italy and the laws which have modified and completed it, together with the pertinent regulations up to the coming into effect of the present law; there shall accordingly be accepted, to a certain extent, the bills of exchange, bank reimbursements, and circular reimbursements issued and payable in the City of the Vatican, as well as the insurance of persons or things there situated.

In cases where, according to the tenor of the law on economic, commercial, and professional organization, the establishment and functioning of commercial agencies or enterprises are authorized in the City of the Vatican, the general and special rules regarding agency or authorized undertakings, as set forth in the Italian code of commerce and in the laws and usages of commerce effective in the City of Rome, shall be applicable in full measure unless otherwise provided in the act of authorization.

Art. 13. Under the reservations specified in Article 3, there shall be observed in the City of the Vatican the code of civil procedure of the Kingdom of Italy and the laws which have modified or completed it will be observed in the City of the Vatican, and the pertinent regulations, up to the coming into effect of the present law and, in a certain measure, the procedure of execution and the special procedures set forth in Book III, Title I (general provisions), Title III (absence), Title V (minors), Title VI (interdiction and incapacity), Title VIII (successions), Title IX (offers of payment and deposits), Title X (copy and collation of public acts), Title XII (execution of sentences rendered abroad), modified by decree Law No. 1272 of the Kingdom of Italy of June 30, 1919.

Art. 14. The powers which, in the civil code and the code of civil procedure of the Kingdom of Italy or in other laws of the same Kingdom, are conferred on the justice of the peace or on the praetor in matters of execution or in procedures of voluntary jurisdiction are exercised by the president of the tribunal of first instance or by a judge whom he designates.

Art. 15. Civil actions not exceeding five thousand lire and possessory actions having a declaration of new work and of possible damage, in the cases provided for in Article 82 of the code of civil procedure of the Kingdom of Italy, are within the competence of the president of the tribunal of first instance or of the judge whom he designates.

For the said actions the procedure fixed by the same code on the subject of judgments before the praetor shall be followed.

The appeal interjected against sentences pronounced in these actions is taken before the tribunal of first instance.

Before this tribunal, before the Sacred Rota and the supreme tribunal of the Signature, as regards the civil judgment of jurisdiction and other matters belonging to the civil tribunals, the rules of canons 1552 to 1998 of the *Codex iuris canonici* shall be observed in the measure in which they are applicable.

Art. 16. In civil matters as well as in penal matters the functions of solicitor and advocates are fulfilled by consistorial advocates.

However, subject to the provisions of Article 9 (b), the dean of the Sacred Roman Rota may draw up a list of persons having the qualities required to exercise the functions of solicitor and advocate before the single judge of civil matters and infractions.

For the tribunal of first instance the dean of the Sacred Roman Rota designates the persons charged with exercising the functions of notary and judicial officer or bailiff.

Art. 17. The following are within the territorial jurisdiction of the City of the Vatican:

1. All actions involving a citizen having his residence in the City of the Vatican or a stranger authorized to reside in that City for an indeterminate time;

2. Actions relative to the estates of the persons indicated in the preceding number;

3. Actions involving a foreigner when it is a question of: (a) real or personal actions relative to movable or immovable property in the City of the Vatican; (b) actions arising from contracts concluded or events occurring in the territory of the same city, or obligations resulting therefrom and effective in the said territory.

Art. 18. The Vatican tribunals are competent to judge offenses committed by any person within the territory of the City of the Vatican, under the condition, however, that the perpetrator has not taken refuge in Italian territory or has not been turned over to the tribunals of the Kingdom of Italy, all according to Article 22 of the treaty of the eleventh of February, 1929.

The competence of the Vatican tribunals exists also in regard to offenses committed in a foreign state, when, for these same offenses, it is possible to proceed within the territory of the state of the Vatican according to the provisions of the penal code of the Kingdom of Italy, subject likewise to the provisions of the above mentioned Article 22 of the Treaty.

Art. 19. In penal and civil cases, as well as in those to which the procedural provisions of the *Codex iuris canonici* are not applicable, all oaths of the parties, witnesses, experts, or other persons must be taken in the forms observed before the ecclesiastical tribunals.

Art. 20. With the reservations specified in Article 3, the following shall be observed in the City of the Vatican:

(a) Law No. 2359 of the Kingdom of Italy on expropriations by reason of public utility, of the twenty-fifth of June 1855, modified by law No. 5188 of the eighteenth of December, 1879, and by the decree-law No. 691 of the eleventh of March, 1923, as well as Articles 30, 33, and 34 of the Royal Decree No. 422 on the execution of public works of the eighth of February, 1923.

If, for grave reasons, and apart from the cases provided for by the above-mentioned law on expropriation by reason of public utility, it is necessary to dispose of the use of immovable private property, to acquire proprietary rights to movable objects or to use them, or to require compulsory labor, the governor will make the decision, by executive decree on his own initiative, upon suitable indemnity fixed by him, subject to later action before a competent judge for its definitive determination.

Without prejudice to the official execution or to the civil action for the fixing of the indemnity, he who does not obey the decree of the governor in the cases above indicated is punished by a fine up to nine thousand lire or by imprisonment up to six months:

(b) The legislation of the Kingdom of Italy in effect on the date of the promulgation of the present law together with the pertinent regulations, concerning:

Antiquities and fine arts;

Panoramic sites;

The transmission of electric energy to a distance;

Public works, with the exception of matters relating to adjudications, which remain subject to successive contracts, and reserving the provisions of Article 8 of Law 5 dated this day;

(c) The legislation of the Kingdom of Italy in effect as above said, including regulations and treaties ratified by the Kingdom of Italy up to the coming into effect of the present law, as well as the prescriptions relative to the execution of these treaties, subject to subsequent adherence of the City of the Vatican to the latter, concerning:

(1) Weights and measures of every kind;

(2) Artistic and literary property;

(3) Patents of invention, trademarks, and patents of manufacture;

(4) Railroads;

(5) Posts;

(6) Telegraphs;

(7) Telephones;

(8) Radio telegraphy and radio telephony;

(9) Aviation;

(10) Automobiles and their circulation;

(11) Prophylaxis of infectious and contagious diseases.

In the relations between the City of the Vatican and the Kingdom of Italy on the subjects above indicated, there are reserved the special conventions which will be signed and which may derogate from the above rules adopted provisionally;

(d) In a general manner, the laws of the Kingdom of Italy, with their respective general and specific regulations, as well as the regulations of the province and government of Rome, for all that concerns the public hygiene and health, the security and integrity of persons and things, the aedile and urban police, as well as in general for every object which, not being already regulated by the present law or by other laws of the City of the Vatican, needs to be juridically established in this city, to the exclusion, however, unless there is express indication to the contrary, of all that relates to the organization of public corporations and administrations, to the economic and juridical status of officers and employees, to the armed forces, to contributions, subsidies, and other similar measures of administration in favor of the objects just enumerated, to taxes, contributions, and fiscal charges imposed on the same objects for the benefit of the administration, to accounting, and to finances.

The government provides for medical assistance according to rules to be prescribed by the governor.

For the authorities of the Kingdom of Italy contemplated in the laws and regulations connected with the present Article, there shall be substituted the governor, the officer, or the bureau dependent upon him which he will designate for this purpose.

Art. 21. Elementary instruction is obligatory from the age of six years through fourteen for children of both sexes who, until schools are established in the City of the Vatican, must frequent those of Rome which will be designated by the governor after agreement with the local authority.

Parents or tutors who violate the above obligation shall be punished by a fine up to five hundred lire or imprisonment up to ten days, unless they can prove that they are able to give private instruction at their own expense and by appropriate methods.

The penalty may be applied twice in the course of a scholastic year.

Art. 22. In case a civil controversy is not settled, because the sources indicated in the preceding articles do not contain a precise juridical rule or because the supplemental legislation of the Kingdom of Italy is for any reason inapplicable, the judge, relying on the precepts of divine and natural law, as well as on the general principles of canon law, shall decide, applying the principles that he would follow if he were a legislator.

Art. 23. Whenever the penal provisions of the legislation of the Kingdom of Italy, used by way of supplement, seem inapplicable for any reason and no other special penal provision exists, if the act committed violates the principles of religion or of morality, public order or the security of persons or of things, the judge, always without prejudice to the provisions and spiritual penalties of the canon law, may apply to the guilty person the penalty of a fine up to nine thousand lire or imprisonment up to six months.

Art. 24. To the governor is delegated for a period of three years the right to issue, in case of absolute necessity or urgency, and without other formality, measures having a general character and the force of law for a term not exceeding three months, in order to regulate either questions for which there is occasion, by way of supplement according to the preceding articles, to apply the legislation of the Kingdom of Italy or any other questions which have not been provided for nor made the object of any other regulation.

Such decisions of the governor shall be published by affixing a notice to the door of the bureaus of the government and in the Saint Damasus court or in other places expressly designated in the same decisions; they shall become effective on the day of their publication.

Art. 25. The present law shall become effective on the day of its publication.

3. LAW ON THE RIGHTS OF CITIZENSHIP AND SOJOURN

Chapter I

The Right of Citizenship

Art. 1. The following are citizens of the City of the Vatican:

- (a) The cardinals residing in the city or in Rome;
- (b) Those who reside in the City of the Vatican in a permanent fashion because of their rank, office, service or employment, when such residence is

prescribed by a law or a regulation, or when it is authorized by the Sovereign Pontiff and, in his name, by the Cardinal Secretary of State, if it concerns a person belonging in any way to the pontifical court or to any of the administrations indicated in Article 2 of the fundamental law of the City of the Vatican, or by the governor when it is a question of any other person;

(c) Those who, independently of the conditions provided for in the two preceding paragraphs, are authorized by the Sovereign Pontiff, for reasons which he in his sovereign authority deems sufficient, to reside in a permanent fashion in the City of the Vatican with the concession or reservation of the right of citizenship.

Art. 2. Also Vatican citizens are the wife, children, parents, brothers, and sisters of a Vatican citizen, on the condition that they live with him and are authorized to reside in the City of the Vatican according to the rules fixed in the following articles.

Art. 3. The authorization indicated in the preceding Article is granted by the Sovereign Pontiff and in his name by the Cardinal Secretary of State, if it concerns a person attached in any way to the pontifical court or to any of the administrations mentioned in Article 2 of the fundamental law of the City of the Vatican, or by the governor if it concerns any other person.

Art. 4. The authorization for the wife and children may be given on the simple statement of relationship.

The authorization ceases by law: (a) for the wife if the marriage is annulled or is the object of a dispensation, as well as if legal separation is pronounced; (b) for the children when they attain the age of twenty-five years unless they are incapable of working and are dependent on the Vatican citizen; (c) for the daughters until their marriage.

The powers of the Sovereign Pontiff indicated in Articles 1 (c) and 16 and those of the governor indicated in Article 17 are reserved and absolute.

Art. 5. The authorization indicated in Article 3 relative to parents, brothers, and sisters may not be granted except when the said relatives are dependent on the Vatican citizen for food.

The authorization ceases by law for the brothers when they attain the age of twenty-five years, unless they are incapable of working, and for the sisters at the time of their marriage.

In every case the powers mentioned in the last paragraph of the preceding article remain reserved.

Art. 6. Vatican citizenship is lost:

(a) By cardinals when, for any reason, they cease to reside in the City of the Vatican or in Rome;

(b) By all citizens voluntarily giving up residence in the city;

(c) By the persons indicated under Article 1 (b) when they leave the rank, office, service, or employment for which they were obliged or authorized to reside in the said city;

(d) By any Vatican citizen whose residence in the city depends on the authorizations indicated in the preceding articles, when the right resulting from the said authorizations by virtue of the same articles ceases, or when a revocation thereof takes place.

Always reserved, as regards residence in the City of the Vatican and, should the case arise, the resulting rights of citizenship, are the powers mentioned in the last paragraph of Article 4.

Art. 7. Since the limited extent of the City of the Vatican does not permit all the descendants and collateral relatives of Vatican citizens to reside there with their new families, the Sovereign Pontiff, desirous of encouraging the formation of new families and generations, reserves the right, for each case, by sovereign and absolute judgment, to take measures in favor of new families who are obliged to abandon the City of the Vatican and to concede to them, under favorable conditions, the use of lodgings belonging to the Holy See in the Kingdom of Italy.

Art. 8. Vatican citizenship is not lost by the simple fact of a temporary sojourn in another place unless such sojourn is accompanied by abandonment of residence in the City of the Vatican or, for cardinals, by abandonment of residence in Rome, or by some other circumstance proving abandonment of residence.

Art. 9. The authorizations envisaged in the present Chapter are revocable at any time, with suitable advance notice, unless reasons of public order, service, morality, and discipline require immediate measures.

Art. 10. The governor keeps a register of Vatican citizens on which are transcribed:

- (a) The names of the Vatican citizens indicated under letters (a), (b), and (c) of Article 1, with mention of the title giving them this quality;
- (b) The authorizations provided in the present chapter;
- (c) The revocation of these authorizations;
- (d) The declarations of voluntary abandonment of permanent residence;
- (e) The certificates attesting the loss of Vatican citizenship for any other reason.

Art. 11. Vatican citizens must provide themselves with identity cards, which the governor will deliver to them according to methods to be fixed by the regulations.

On presentation of such identity cards they may leave the City of the Vatican and re-enter without other formality.

Cardinals who are Vatican citizens and their suites, the governor, and other persons to be designated by the regulations are exempt from the obligation of having identity cards.

Chapter II

Entrance and Sojourn in the City of the Vatican

Art. 12. Those who are not Vatican citizens, in order to enter the City of the Vatican, must provide themselves with an authorization, conforming to the model to be fixed by regulation of the governor, which, after proof of the identity of the persons, shall be delivered by the officers or agents in charge of the maintenance of entries.

For just and grave reasons, of which the officers and agents above indicated are the only judges, the authorization may be refused.

The authorization allows remaining in the City of the Vatican only during the hours determined by regulation of the governor.

The authorization must be kept and shown whenever asked.

Art. 13. For the entrance of societies, bands of pilgrims, and other similar groups, a collective authorization may be delivered in the name either of the leaders or of the directors of the societies or bands of pilgrims in question, with the simple indication of the number of persons accompanying them.

The governor or official delegated by him may accord permanent authorizations of entry.

Art. 14. Those who are not Vatican citizens must, in order to remain in the City of the Vatican outside the hours indicated in Article 12 above, obtain authorization from the governor or from the officer designated for this purpose.

The authorization specifies the duration of the stay and may contain the restrictions and conditions which the governor or the said officer deems advisable.

Art. 15. Exempted from the authorization mentioned in Article 12 are foreigners furnished with passports already visaed by a diplomatic representative of the Holy See or by any other authority delegated for this purpose by the Sovereign Pontiff. This visa does not authorize remaining in the City of the Vatican outside the hours mentioned in the next to last paragraph of the Article above-mentioned.

Exempted from the authorization of entry and stay in the City of the Vatican outside the hours above indicated are the cardinals who are not citizens of the Vatican and their suites, the members of the diplomatic corps accredited to the Holy See, the family of the Sovereign Pontiff, the dignitaries of the pontifical court, the ecclesiastics and other persons attached to offices or courts of the apostolic see, the general counsellor of the state, the employees of the government and of other Vatican administrations, those who belong to the armed forces when they come for reasons of service, and the other persons who may be indicated in the regulations.

Art. 16. The Sovereign Pontiff, for such reasons as he may deem necessary in his sovereign authority, reserves the right to permit anyone to remain in the City of the Vatican for an indeterminate length of time, but without such authorization implying the acquisition of right of citizenship.

Art. 17. The governor or office designated for this purpose may, with the same effect, grant authorizations for temporary stay: (a) to members of the families of Vatican citizens, within the limits of relationship indicated in Article 2, even when those mentioned in Articles 4 and 5 have not existed or have ceased to exist, and also to relatives and connections of even more distant degree than those mentioned in the said articles, if their permanent residence in the City of the Vatican is necessary to a Vatican citizen for personal assistance or the management of his house. The authorization may be accorded, as a general rule, to only one person for each Vatican citizen. An authorization for several persons must be delivered by the governor himself; (b) to persons indicated under the preceding letter when the Vatican citizen obliged by law to furnish them with the necessities of life is able to provide them only in his own domicile; (c) to domestics and servants of Vatican citizens or of persons who have the right to reside in the City of the Vatican; (d) in extraordinary cases of absolute necessity.

Art. 18. No person, even though authorized to stay, may give lodging, temporary or permanent, with or without payment, without authorization of the governor or of the office designated for this purpose.

Art. 19. The authorizations specified in this Chapter are always revocable, subject to the provisions of Article 9 relative to advance notice.

Art. 20. The granting of lodgings in the City of the Vatican to those who reside there, except in the case of lodgings in private property and subject, in that case, to the provisions relative to leases, sub-leases, and the right of requisition, is made in an absolute manner by the Sovereign Pontiff and in his name by the governor.

The concession of lodgings is revocable, with appropriate advance notice, unless reasons of public order, service, morality, or discipline require immediate revocation.

The Lodging may be changed by a decision of the authority which has granted them, but subject to the rules of appropriate advance notice.

The indications concerning the capacity of lodgings assigned or assignable, as well as other particulars of the localities, must be kept up to date with a view to the concession or refusal of authorization of residence to relatives and connection in accordance with the provisions of Chapter I and of the present Chapter.

The revocation of the concession of lodgings implies by law the revocation of the authorization to reside in the City of the Vatican, unless it provides otherwise.

Art. 21. The persons who are in the City of the Vatican without the authorizations required in the preceding articles or with authorizations that have lapsed or have been revoked may be expelled by the public force.

For grave reasons, or where it is a question of persons condemned by the Vatican courts for any offense whatsoever, the expulsion may be accompanied, on order of the governor, by permanent or temporary prohibition to enter the City of the Vatican.

Art. 22. The governor keeps a register of civil status. Inscribed therein are: the names of the persons authorized to reside in the City of the Vatican for a limited or unlimited period according to the rules of the preceding articles; the revocations of the same authorizations; the decrees of expulsion and prohibitions of entry.

Chapter III

Entrance into the City of the Vatican with Vehicles

Art. 23. Carriages or automobiles belonging to foreigners, whether they serve for transportation of persons or things and whether they are private or for public service, may enter the City of the Vatican after delivery of special authorization: (a) when they transport persons or merchandise permitted to enter the City; (b) when, although empty, they are required by a person within the territory of the City of the Vatican for the transportation of persons or things in the interest of the person requiring them.

Arts. 24-27. [Parking, registration, fueling of automobiles.]

Arts. 28-30. [Penal provisions.]

Art. 32. Until the establishment of a new and special entry for the museums of the Vatican, the governor will have the right to suspend by his regulations the application of the provisions contained in Articles 12, 13, 15, 23, 24 and 25 of the present law or to issue other regulations in place of the above-mentioned provisions.

Art. 33. The present law shall become effective on the day of its publication.

4. LAW ON ADMINISTRATIVE ORGANIZATION

Chapter I

General Rules

Art. 1. The grants of power made by this law or others do not in any way derogate from the right of evocation possessed by the Sovereign Pontiff by virtue of Article 6 of the fundamental law.

Art. 2. The Sovereign Pontiff reserves to himself the right to annul, at any moment, the provisions emanating from any administrative authority which are contrary to the laws or to the general or special regulations.

He may, as well, revoke or amend at any time measures which seem inopportune or prejudicial to the public interest, subject, in case the said measures have given rights to third persons, to an equitable indemnification fixed in the decision of revocation or amendment.

Art. 3. Subject to the right of invoking at any time against an administrative measure, and by means of grace, the power of annulment, revocation or amendment indicated in the preceding article, appeal to the Sovereign Pontiff by means of the tribunals, provided for in Article 16 of the fundamental law, must be formulated within thirty days of the publication or notification of the measure attacked, or from the day when the interested party has shown that he had knowledge thereof.

Art. 4. Action against an administrative authority to defend a right allegedly violated by it is prescribed after a period of five years. The prescription runs also as regards minors and incompetents.

Chapter II

Organization of the Government

Art. 5. The governor personally exercises his powers:

- (a) In matters of legislation, when they are delegated to him;
- (b) In the making of regulations;
- (c) In the conclusion of agreements with the communal, provincial, or local governmental authorities residing in Rome;
- (d) In relations with the said authorities or with other authorities of the Kingdom of Italy, if the occasion arises in the transaction of business within the jurisdiction of the government;
- (e) When it appears expressly from other laws or regulations that the power is strictly personal.

Art. 6. The governor must be a Vatican citizen and reside in the Vatican.

Art. 7. In case of absence or impediment, the governor is replaced by the chief of service whom he designates; for lack of designation, by the secretary general and, in the absence of the latter, by the senior chief of service present, or, if there is parity in the date of nomination, by the oldest.

He who replaces the governor may not exercise the powers reserved personally to the latter except in cases of necessity or urgency.

Art. 8. The counsellor general of the state and the judges and officers of the judicial power are not obliged to be Vatican citizens or to reside in the Vatican; they do not belong to the category of officers and employees and receive only a simple compensation for services.

Art. 9. The distribution of offices, the number, the powers, the rights, and obligations of officers, employees, and clerks, their appointment, their discipline and their dismissal are determined by regulations to be issued by the governor.

Art. 10. On any occasion, subject to the powers of the Sovereign Pontiff as regards the governor and the counsellor general of the state, and subject also to the special provisions applicable to the armed forces, the officers and employees dependent on the governor may be punished, according to the gravity of their fault, by censure or by suppression of a fourth of their salary during one year or more. The faults which render an officer unworthy, unsuitable, or incapable, from the point of view of the necessary confidence, may always entail dismissal notwithstanding a contract for a period or for life.

Dismissal may also and always be pronounced in case of physical or intellectual incapacity.

Art. 11. The measures treated in the preceding Article are taken by the governor, after hearing the interested parties and without other formality.

Recourse to the Sovereign Pontiff is admitted against these measures, to the exclusion of any other action except with respect to the civil property rights which may result from special contracts and on the subject of which it is impossible to check the reasons for the administrative measure.

Art. 12. The officers or employees who are responsible for payments or collections or who are, in any way, responsible for the handling of money, securities, or merchandise, must render account to the governor, to whose supervision they are submitted through the bureau of finances and accounting.

The governor, when he considers a person subject to accounting to be responsible even through simple negligence, notifies such person of his reasons and gives him a period of time for his defense. If, in the opinion of the counsellor general of the state, the responsibility is well established, the amount of reimbursement is fixed by a decision of the governor on the basis of conservatory measures, or of the inscription of a judicial mortgage, or, when the governor deems it advisable, of a forced execution on the property of the person subject to accounting, including the property taken for security if such exists.

Against this decision the person subject to accounting may appeal to the Sacred Rota. The appeal does not have the effect of suspension.

Art. 13. The administrative officers charged with receiving pledges, ordering payments, with watching over those who handle money, securities, or commodities and also over the pledges and expenditures above indicated, are responsible for the losses which, by their fault or fraud, result to the state.

Every officer or employee who by act or omission, even though unpremeditated, causes prejudice to the state, incurs the same responsibility, unless he can show that he acted by virtue of a superior order which he was obliged to execute.

The supervision of the said responsibility is conducted according to the same procedure as that established for persons subject to accounting in the preceding Article.

The governor of the Sacred Rota may by way of equity, however, as regards the responsible officers or employees mentioned in the present Article, charge the responsible officer or employee with only a part of the loss sustained.

Art. 14. All dignitaries, officers, and employees shall take the oath of allegiance by means of the following formula:

I swear on the Holy Gospel to be faithful to the Sovereign Pontiff, to observe scrupulously the orders which shall be given by him, by my other superiors, and by the laws of the state, and to fulfill with zeal the obligations of my office.

The oath is taken by the governor, the counsellor general of the state, and the commandants of the armed forces before the Sovereign Pontiff, and by other persons before the governor.

Chapter III

Contracts

Art. 15. All contracts entered into in the interest of the City of the Vatican for an amount greater than 5,000 lire must be first submitted for the examination of the bureau of finances and accounting, which may present on the subject the observations which seem to it legitimate, and thereafter for the approval of the governor or his substitute.

For lack of these formalities contracts are null. The nullity may be opposed only by the public administration.

Art. 16. In all contracts for work or supplies, unless there is a contrary stipulation, the right of cancellation upon payment of ten percent of the amount of the work or supplies to be delivered, in addition to full payment for deliveries already made, is reserved to the administration.

Art. 17. In all contracts for work or supplies, when the contractor does not execute his bargain, the administration may, by an executory decree and with the assistance of the public force, if it is necessary, occupy the shops, seize the machines, the warehouses of materials, or supplies of merchandise, and execute the contract, subject to the eventual indemnities to be fixed by the judicial authority.

Chapter IV

General Provisions

Art. 18. The present law shall become effective on the day of its publication.

5. LAW ON ECONOMIC, COMMERCIAL, AND PROFESSIONAL ORGANIZATION

Art. 1. The state of the City of the Vatican has its own currency.

The money and bank notes of the Kingdom of Italy are legal tender according to the legislation of that Kingdom until the rules concerning the currency of the City of the Vatican are formulated and that currency is issued.

Art. 2. The authorization of the governor is necessary for the alienation of real property situated within the territory of the Vatican, for transactions between the living, whether for compensation or gratuitous, for the constitution of rights of long lease, rights to the surface of land,

use, usufruct, servitude, mortgage, or any other effective right, as well as for the leases and sub-leases, even partial, of such real property, whatever may be the duration of the lease.

The same authorization is obligatory for the acquisition of the same rights over the said real property by lawful succession or by testamentary disposition, either by universal or by individual title.

Until this authorization has been granted, no one may dispose of the possession of real property or effect the operations above indicated. Infractions of this provision are punished by a fine which may amount to three thousand lire.

The absence of authorization renders null the transactions mentioned in the preceding Article. The nullity may be disregarded by the government.

In the case where authorization is refused for entrance into possession of real property by succession, as stated above, the real property falls under the patrimony of the state in exchange for a just indemnity fixed by the governor, but with recourse possible to the courts according to the methods and forms applicable to indemnities for expropriation. If the authorization to acquire rights with respect to real property by inheritance is refused, the heir who is authorized to receive the title to the property shall take it free of the said rights, but pecuniary compensation commensurate with the charge imposed by the said rights shall be granted and, in case of difference, fixed by the judicial authority.

Art. 3. For the real property existing in the City of the Vatican and not owned by the Holy See, no work of transformation or enlargement may be executed without the previous authorization of the governor.

Infractions of this prohibition are punished by fine up to five thousand lire; moreover, the governor or the service delegated for this purpose shall have full power to require officially, without other formality and at the expense of the offender, the restoration of the property to its previous condition.

Art. 4. The purchase for resale of merchandise or commodities, of whatever nature or origin, and their sale are reserved as a monopoly to the state according to the rules to be fixed by decree.

The state provides, further, by means of a special organization, for the pharmaceutical service.

By the sole intermediary of competent offices of the state, or following only the forms which shall be fixed by regulations, persons residing in the City of the Vatican may cause to be sent there, for their personal use or for that of their families, merchandises or commodities exempt from the customs taxes and taxes of consumption in effect in the Kingdom of Italy. Amounts exceeding the limits of this use will be confiscated with or without indemnity according to the circumstances.

Art. 5. The introduction by private persons into the City of the Vatican, for their personal use or for that of their own families, of merchandise or commodities acquired in the Kingdom of Italy and already subjected to customs taxes, as well as to taxes of consumption in effect in the said Kingdom, is free, subject, in each case, to proof by the person introducing them that the conditions above indicated exist.

It is forbidden to individuals to bring into the City of the Vatican merchandise or commodities, even when they have paid the customs taxes and taxes of consumption established by the laws of the Kingdom of

Italy, if they are brought in in such abundance and in such a manner that they are obviously intended for commerce; it is the same in regard to the storing of the said merchandise or commodities and their sale.

Infractions of the prohibition mentioned in the preceding paragraph are punished by a fine up to five thousand lire, as well as by confiscation of the merchandise and commodities. In case of a second offense, imprisonment up to six months may be added to the fine.

It is further forbidden to individuals to bring into the City of the Vatican merchandise or commodities which have not been subjected to the customs taxes and taxes of consumption mentioned above, even when they are not brought in in such quantity or in such manner that a commercial purpose is evident; it is the same as to the holding of such merchandise or commodities and their sale.

The violation of the prohibition formulated in the preceding paragraph is punished by a fine up to fifteen thousand lire; in every case the merchandise introduced, held, or sold in violation of this prohibition is confiscated, as well as the receptacles and means of transportation. In case of association for the accomplishment of the offense or of a second offense, the penalty of imprisonment may be also pronounced for a term which may reach three years.

Art. 6. The exportation of merchandise or commodities from the City of the Vatican to the territory of the Kingdom of Italy is forbidden. The violation or even the simple attempt to violate this prohibition is punished by a fine of the same amount as that fixed in the last paragraph of the preceding Article, and by imprisonment up to three years, in addition to the confiscation of the contraband, merchandise, or commodities and of the receptacles and means of transportation.

Exempt from the prohibition of exportation are objects of personal use in the usual quantity needed for a trip, and also the exportation of personal property in case of removal of residence from the City of the Vatican.

Art. 7. No one may open a store, a workshop, or an office, even for the purpose of simple occupations, or establish industrial or commercial enterprises of any kind, or create cabinets, offices, agencies, or fixed localities to receive the public with a view to exercising any profession whatever, without the authorization of the governor.

If the laws in effect in the City of the Vatican or the national laws of a foreigner exercising a liberal profession require for the exercise of that profession proofs of capacity, the authorization may be granted only if these proofs have been submitted in conformity with the Vatican or foreign law.

Infractions of this prohibition are punished by a fine up to three thousand lire and, as well, by the closing, as a matter of course and without other formality, of the places used.

Art. 8. Whenever, for the establishment of a business bureau or a commercial or industrial enterprises, the authorization provided for in the preceding Article has been granted, provided that other rules have not been issued by the City of the Vatican, the employer shall be subject by law to the provisions of the legislation of the Kingdom of Italy in effect upon the application of the present law, to the extent that these provisions are applicable and subject to the reservations mentioned in Article 3 of Law No. 2 of the same date on the sources of law, with respect to

labor contracts, the labor of women and children, the eight hour day, rest on feast days, social insurance for accidents, maternity, illness, and old age, enforced idleness and tuberculosis; also, whenever it is not otherwise prescribed by the laws or by clauses of the act of concession, and in so far as special rules shall not have been formulated by the City of the Vatican, he shall fulfill the assurances connected with the preceding questions by means of contracts entered into with the establishments or organizations to which the legislation of the Kingdom of Italy requires him to address himself.

Also subject to the rules of the preceding paragraph are foreign entrepreneurs who, by contracts, either with the public administration or with individuals, execute enterprises or carry on any work or provisioning in the City of the Vatican.

Art. 9. The occasional and temporary work executed by representatives, even foreigners, of various professions, arts, enterprises, or occupations, for the profit of persons residing in the City of the Vatican or their property, are free, subject to the observance of the rules relative to admissions and sojourn.

However, even in the case provided for by this Article, if the Vatican law or the national law of the foreign professional requires proofs of capacity, the latter may offer his services only if he has submitted these proofs.

Infractions of the prohibitions contained in the present Articles are punished by a fine up to nine thousand lire or by imprisonment up to six months.

Art. 10. The present law shall become effective on the day of its publication.

6. LAW OF PUBLIC SECURITY

Art. 1. The governor watches over the maintenance of public order, the security of the citizens, the integrity of their persons, the protection of their property, the safeguarding of their possessions, and the public hygiene and morality.

With this purpose, either in the execution of the laws and regulations or on the occasion of events not provided for in the general provisions, he will take the measures he deems advisable.

Whoever does not obey these measures, without committing any other graver fault, is punished by a fine up to four thousand, five hundred lire or by imprisonment up to three months.

Without prejudice to the penal action, the measures above indicated may, in such a case, be executed even immediately, with the aid of the public force, but with the obligation for the person obliged to obey to reimburse the expenses of execution in accordance with the liquidation established by the governor.

Art. 2. Anyone who, on the summons of the governor or of the officers dependent on him, does not present himself on the day set, is punished, unless there are valid reasons, by a fine up to one thousand, five hundred lire or by imprisonment up to one month.

Without prejudice to the penal action, the authorities indicated in the preceding paragraph may, by constraint, oblige those who have not obeyed the summons to appear.

Art. 3. The constitution of any association without the authorization of the governor is forbidden.

The prohibition is not applicable to religious orders, to congregations and associations provided for by the *Codex iuris canonici* and constituted according to the rules of the latter.

The associations constituted contrary to this prohibition are dissolved independently of measure which shall seem advisable as regards the locality and possessions.

The offenders are subject to a fine up to nine thousand lire and to imprisonment up to six months.

Art. 4. Any meeting in a public place or one open to the public is forbidden without the previous authorization of the governor. A meeting announced by private invitation is considered as public when it appears from the place designated, the number of persons invited, and the object of the meeting that the private character of such meeting is simulated.

The provision of the preceding Article does not apply to receptions, processions, religious ceremonies, and funeral corteges, subject to understanding to be established with the governor.

Unauthorized meetings are dissolved by the public force. Even authorized meetings may also be dissolved when they are disorderly or in danger of becoming so.

Anyone who takes part in an unauthorized meeting is punished by a fine from five hundred to nine thousand lire or by imprisonment from ten days to six months.

Whoever does not obey the order of dissolution of an authorized meeting is punished by a fine up to four thousand, five hundred lire or by imprisonment up to three months.

Art. 5. It is forbidden to keep arms, even in one's dwelling place, or to carry them outside without the authorization of the governor.

Sharp or cutting instruments capable of causing wounds may not be carried without just cause outside of one's dwelling.

Authorization is even necessary for collection of artistic, rare and ancient arms.

Transgressors of the prohibition to have or carry arms without authorization or to circulate without just cause with instruments capable of causing wounds are punished by a fine up to nine thousand lire or by imprisonment up to six months. The said arms or instruments are confiscated.

Those who infringe the prohibition of having collections of artistic, rare, or ancient arms without authorization are punished by a fine of three thousand lire. Confiscation is optional.

Art. 6. It is forbidden, without authorization of the governor, to keep war weapons, deposits of arms not of war, deposits of munitions and explosive material. Whoever violates this prohibition is punished, if the act is not accompanied by a graver offense, by imprisonment from three months to three years, as well as by the confiscation of the arms, munitions and explosive matters.

Art. 7. For the observance of the two preceding Articles the governor may order domiciliary visits or personal searches.

Art. 8. The public exercise of printing, lithography, photography, and other mechanical or chemical reproduction of characters, designs, or figures is forbidden without the authorization of the governor.

It is forbidden to affix or offer to the public, even gratuitously, announcements, writings, printed matter, books, engravings, lithographs,

photographs, statues of any kind, without the authorization of the governor.

Infractions of the two preceding prohibitions are punished by a fine of nine thousand lire or by imprisonment up to six months.

Art. 9. The ambulatory sale of any objects whatever is absolutely prohibited. Infractions of this prohibition are punished by the penalties indicated in the preceding Article.

Art. 10. It is forbidden to exercise the profession of guide or interpreter without authorization of the governor, which is subject to proofs of the aptitude of the applicant.

Whoever infringes this prohibition is punished by a fine up to four thousand, five hundred or by imprisonment up to three months.

Art. 11. The authorizations or licenses mentioned in the preceding Articles may be granted by the governor or by the offices dependent on him, except for the authorization mentioned in Article 3; they may also be subjected to all the conditions and limitations of term which may seem advisable. They are revocable at any time without indemnity.

Art. 12. The present law shall become effective on the day of its publication.

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VENEZUELA

SUMMARY

INTERNATIONAL STATUS

Venezuela is a member of the United Nations. It signed the Charter in San Francisco on June 26, 1945 and ratified it September 25, 1945. It also signed the United Nations Declaration of January 1, 1942.

It was a member of the League of Nations and signed the Paris Pact of 1928 for the renunciation of war. It signed and ratified the Statute of the Permanent Court of International Justice of 1921 and is a party to the Statute of the International Court of Justice of 1945. It is not, as of the time of our going to press, subject to the compulsory jurisdiction of

the Court under Article 36 of its Statute.¹ It is a member of the Organization of the American States, the Postal Union and numerous other international organizations.²

Venezuela broke off relations with the Axis in December 1941 and declared war on Germany and Japan, February 15, 1945.

In July 1811 the National Congress proclaimed Venezuela's independence, but very soon thereafter the country was reconquered by Spain. It was finally liberated by Bolívar and its independence once more was proclaimed by the Congress of Angostura on February 15, 1819. Until 1830, Venezuela formed part of a federation comprising Colombia, Panama, Venezuela and Ecuador.

FORM OF NATIONAL GOVERNMENT

The immediate constitutional situation in Venezuela, at the time of our going to press, has elements of uncertainty. The latest Constitution in point of time is the one adopted by the National Constitutional Assembly on July 5, 1947. On November 24, 1948 a Military Junta, whose representatives are recognized diplomatically by the United States of America, assumed control of the government and made the following announcement:³

For all questions of a constitutional character there will be applied the National Constitution promulgated the 20th of July, 1936, and amended the 5th of May, 1945, without prejudice to the Junta's according respect to those provisions of progressive character of the National Constitution promulgated the 5th of July, 1947, which the National Armed Forces have promised to respect. . . . The legal order of the Republic is maintained in so far as it may not be contrary to the provisions of the present Act and to the objectives which gave rise to the Provisional Government.

A press statement released by the Minister of Foreign Affairs of Venezuela about February 1, 1949 contained the following language:

"The National Constitution enacted on June 20, 1936 (promulgated July 20, 1936), and as amended in May, 1945, is the Constitution now in force, with all progressive measures as enacted in the Constitution of 1947 to be preserved in full, especially the constitutional rights guaranteeing certain specific social and economic privileges."

There is a prospect that another Constitutional Assembly will be called for the adoption of a new Constitution. In view of the present situation the text of the 1947 Constitution, the latest document issued by a national constituent assembly, is published in this compilation with ap-

¹ See Yearbook of the Court, 1947-48, p. 39; also Documents & State Papers, Dept. of State, Vol. 1, No. 3, June 1948.

² See Table I.

³ Gaceta Oficial of November 25, 1948.

propriate footnotes indicating some of its variations from the 1936 Constitution as amended in 1945.

"The Venezuelan Nation is the association of all Venezuelans in a political organization compact having the name of the United States of Venezuela." There are 20 component states.¹ The public power is "distributed among the municipal, state and national powers," and its organization and functioning are governed by "the principles of republican, federal, popular, representative, alternative and responsible government."²

SOURCE OF SOVEREIGNTY

The Constitution states that "sovereignty resides in the people."³

RIGHTS OF THE PEOPLE

The Constitution guarantees inviolability of life,⁴ personal liberty and security,⁵ the right of habeas corpus,⁶ freedom to travel,⁷ inviolability of the home and of correspondence,⁸ freedom of speech and the press,⁹ liberty of conscience and of worship,¹⁰ and the rights of assembly, association and petition.¹¹ It also guarantees the equality of all inhabitants of the Republic,¹² without prejudice to the right of the Nation "to establish restrictions regarding the exercise of the rights corresponding to all foreigners, or to a determinate class of them, when this is required as the result of grave motives of internal or external security or for reasons of public health."¹³ Separate chapters of the Constitution are devoted to provisions regarding the family, health and social security, education, work, the national economy and the suspension and restriction of guarantees.¹⁴

LEGISLATIVE DEPARTMENT

Legislative power is vested in the National Congress, composed of the Chamber of Deputies and the Chamber of Senators.¹⁵ The 1947 Constitution provides for the election of the members of both Chambers for terms of five years by universal, direct and secret ballot; two senators for each state and the federal district and one deputy for every forty thousand inhabitants in the respective electoral districts.¹⁶

¹ Preliminary Declaration of Constitution of 1947, and Art. 3.

² Constitution of 1947, Art. 86. A similar provision was contained in Article 13 of the Constitution of 1936. Earlier constitutions were those of 1821, 1830, 1858, 1864, 1874, 1881, 1893, 1901, 1904, 1909, 1914, 1922, 1925, 1928, 1929 and 1931.

³ Const. of 1947, Art. 79.

⁴ Id., Art. 29.

⁵ Id., Art. 30.

⁶ Id., Art. 32.

⁷ Id., Art. 34.

⁸ Id., Arts. 35, 36.

⁹ Id., Art. 37.

¹⁰ Id., Arts. 38-40.

¹¹ Id., Arts. 41, 42, 43.

¹² Id., Art. 46.

¹³ Id., Art. 21.

¹⁴ Const., Title II, Chapters III to VIII.

¹⁵ Id., Art. 141.

¹⁶ Id., Arts. 140, 151, 154. The 1936 Constitution, as amended in 1945, provides, in Article 55, for terms of four years for both senators and deputies; in Article 56, for the election of deputies by direct vote on the basis of one deputy for every 35,000 inhabitants, not counting uncivilized Indians; and, in Article 60, for the election of two senators by the Legislative Assembly of each State.

EXECUTIVE DEPARTMENT

The chief of the national executive power is the President of the Republic, who, according to the 1947 Constitution, is elected for a term of five years by universal, direct and secret ballot and is ineligible for the constitutional period immediately following.¹ The President carries out his duties by means of the ministers provided by law and appointed by him.² "The ministers have the right of voice in the chambers and in the permanent commission of Congress."³

JUDICIAL DEPARTMENT

The judicial power is vested in a Supreme Court of Justice and other courts which the laws may establish.⁴ The judges of the Supreme Court are elected by the Congress for terms of five years.⁵ The Supreme Court has jurisdiction "to declare the nullity of national laws, state laws, or municipal ordinances, when they violate the Constitution of the Republic."⁶

AREA, POPULATION, LANGUAGE

Venezuela has an area of 352,150 square miles and a population of approximately 4,300,000. The language is Spanish.

¹ Const. of 1947, Arts. 140, 190, 192, 193. The 1936 Constitution, as amended in 1945, provides, in Article 100, for the election of the President by the Chambers in joint session.

² Id., Arts. 198(19), 201.

³ Id., Art. 209.

⁴ Id., Art. 211.

⁵ Id., Art. 219.

⁶ Id., Art. 220.

CONSTITUTION OF VENEZUELA

July 5, 1947 ¹

PRELIMINARY DECLARATION

The Venezuelan Nation is the association of all Venezuelans in a political organization compact having the name of the United States of Venezuela. It shall be forever irrevocably free and independent of all domination by or protection of foreign powers.

The Venezuelan Nation proclaims as the basic reason for its existence the spiritual, political, and economic liberty of man, based on human dignity, social justice, and the fair participation of all the people in the enjoyment of the national wealth.

From that fundamental reason the Nation derives its functions of defense, of law, and of culture, for the achievement of its essential aims consisting chiefly in the harmony, welfare, and social and individual security of Venezuelans and of those who live together in its territory and subject to its law; the affirmation of its own nationality, in sustained harmony with fraternal co-operation in the concert of nations for purposes of peace and progress and with a mutual respect of sovereignty; the support of democracy, as the sole and irrenounceable system for governing its internal relations, and the peaceful collaboration for the purpose of promoting that same system in the government and relations of all the peoples of the earth.

The Venezuelan Nation repudiates war, conquest, and the abuse of economic power as instruments of international politics; it reaffirms its desire to resolve all its conflicts and controversies with other states by the peaceful means established in the pacts and treaties to which it is a party; it endorses the principle of self-determination of peoples, and it recognizes international law as adequate to guarantee the rights of men and of nations in the terms and for the purposes of the present declaration.

The Venezuelan Nation bases the fulfillment of its destiny and the realization of its goals upon the integrity of its territory, its economic potential, its respect for liberty, the consecration of work as the supreme virtue and as the supreme foundation of human betterment, and the patrimony of the moral and historic authority which Venezuelans have earned, led by Simon Bolivar, in the undertaking of freeing the American Continent.

¹ Spanish text published in the *Gaceta Oficial* of Venezuela, No. 194, July 30, 1947. The translation used here was prepared by Robert M. Sebastian and Tom Lumpkin, North American attorneys, counsel of the Venezuelan Atlantic Refining Company, and was distributed by the Venezuelan Ministerio de Fomento. It has been checked against the Spanish text and revised in minor respects.

TITLE I**TERRITORIAL AND POLITICAL DIVISION**

Art. 1. The territory of the United States of Venezuela is that which before the political transformation of 1810 corresponded to the Captainship General of Venezuela, with the modifications resulting from treaties celebrated by the Republic. This territory cannot, in whole or in part, ever be ceded, transferred, leased, or alienated in any manner to foreign powers, even for a limited period of time.

Foreign nations may only acquire, in conformity with the law, the realty necessary for the seat of their diplomatic representation in the capital of the Republic, on a basis of reciprocity, it being understood that the national sovereignty over the land shall always remain.

Art. 2. The national territory shall be divided, for the purposes of the political organization of the Republic, into states, the federal district, the federal territories, and the federal dependencies.

The territory of the states shall be divided into municipal districts, and the territory of the latter, in turn, into municipalities.

Art. 3. The states are as follows: Anzoátegui, Apure, Aragua, Barinas, Bolívar, Carabobo, Cojedes, Falcón, Guárico, Lara, Mérida, Miranda, Monagas, Nueva Esparta, Portuguesa, Sucre, Táchira, Trujillo, Yaracuy, and Zulia.

Art. 4. The states shall retain the boundaries which they now have. A special law shall set forth the said boundaries, abiding by the division established by the Law of April 28, 1856, and its modifications in effect as of the date of this Constitution.

States having a common boundary may merge by means of agreements approved by their respective legislative assemblies; however, they shall always conserve the right to reacquire their autonomy. They may also, by means of the same formalities, modify their common boundary, granting to each other such compensations or territorial concessions as may be appropriate.

Art. 5. The federal district shall be organized by means of a special law, in which the autonomy of the municipal power shall be retained in those matters respecting its economic and administrative management, in the terms consecrated by this Constitution.

Art. 6. The City of Caracas is the capital of the Republic and the seat of the national government, subject to the provisions of clause (b), section 18 of Article 198 of this Constitution and section 31 of the same Article.

Art. 7. The federal territories are the Amazonas and the Delta Amacuro, and they shall be governed by special laws.

The boundaries of the said territories and of the federal district with their neighboring states may be modified by means of agreements which the national executive may celebrate with the governments of the said states, with the approval of the National Congress and the legislative assemblies of the contracting states.

Art. 8. The federal territories may choose the category of states when they shall have a minimum of fifty thousand inhabitants.

In such event, the National Congress shall elevate to the category of state all or a part of the territory requesting the same, in accordance with the law.

Art. 9. The federal dependencies are the maritime islands of Venezuela, excepting the islands of Margarita, Coche, and Cubagua, which constitute

the state of Nueva Esparta. The government and administration of the said dependencies belong to the national executive, in accordance with the law. The law shall prescribe, further, the conditions by means of which federal dependencies may choose the category of territories.

Art. 10. All presently existing controversies involving boundaries, as well as those which may in the future arise for the same cause, between the states, or between them and the federal district or the federal territories, shall be decided by the Supreme Court of Justice, through the procedure prescribed by law.

TITLE II OF NATIONALITY

Art. 11. The following are Venezuelans by birth:

(1) Those born in Venezuela, except the children of foreigners not domiciled or residing in the Republic or who may be in the country in the official service of another state;

(2) Those born on Venezuelan ships or planes, outside the territorial dominion of another state, with the exceptions set forth in the preceding section;

(3) Those born abroad, of a Venezuelan father or mother who is abroad in the official service of Venezuela;

(4) Those born abroad, of Venezuelan father and mother, when in accordance with the laws of the country where they are born they do not acquire the nationality of that country.

First Paragraph: There shall also be considered as Venezuelans by birth those excepted in sections 1 and 2 of this Article if, having attained their majority, they establish their domicile in Venezuela or manifest their desire to embrace Venezuelan nationality.

Second Paragraph: Those born abroad, of a Venezuelan father or mother, not included in sections 3 and 4 of this Article, shall, likewise, be Venezuelans by birth if they are domiciled in this country upon attaining their majority, or if, having attained their majority, they manifest their desire to embrace Venezuelan nationality or establish their domicile in the country.

Third Paragraph: There shall also be considered as Venezuelans by birth, those born abroad, of a Venezuelan father or mother, when their birth has been inscribed before the respective Venezuelan diplomatic or consular authority.

Art. 12. The following are Venezuelans by naturalization:

(1) The foreign-born woman who marries a Venezuelan, if in accordance with her national law she loses her previous nationality as the result of her marriage;

(2) The children of age who are born abroad of a naturalized Venezuelan if they become domiciled in this country and manifest their desire to be Venezuelans;

(3) Natives of Spain or of any of the Latin-American countries who are domiciled in the country and manifest their desire to be Venezuelans.

On the basis of effective international reciprocity, established by means of treaties, persons of Spanish and Latin-American-Republican origin may obtain Venezuelan nationality without losing or modifying their original nationality;

(4) Foreigners who have obtained or may obtain naturalization papers in accordance with the law.

Art. 13. The dissolution of marriage shall not affect the nationality which the spouses and children may have.

Art. 14. Any Venezuelan woman who marries a foreigner shall conserve her Venezuelan nationality, unless she manifests a contrary desire, and provided that such manifestation is sufficient for her to acquire the nationality of her husband in accordance with the national law of his country.

Art. 15. The manifestations of desire to which the previous articles refer and the acquisition of naturalization papers shall be regulated by the law.

Art. 16. By means of public treaties, there may be adopted rules for determining the nationality of persons to whom the application of the laws of different countries might attribute multiple nationality.

There are excepted the provisions of the second paragraph of section 3 of Article 12 of this Constitution.

Art. 17. Venezuelan nationality may be lost:

(1) Through the full and voluntary acquisition of another nationality, except in the cases set forth in the second paragraph of Section 3 of Article 12;

(2) Through the revocation of naturalization in cases fixed by law.

Art. 18. The recovery of nationality shall be regulated by law.

Art. 19. The nullity of naturalizations as a result of defects which might affect them shall be regulated by the law.

TITLE III

OF INDIVIDUAL AND SOCIAL RIGHTS AND DUTIES

CHAPTER I

GENERAL PROVISIONS

Art. 20. All Venezuelans have the duty to defend their country, to fulfill and obey the Constitution and the laws of the Republic, as well as the decrees, orders, and resolutions which, in accordance with their powers, the public authorities may dictate. They shall not serve against Venezuela in any event, or against her allies in case of armed international conflict, and, should they do so, they shall be considered as traitors to the Nation.

All foreigners are obliged to obey the laws in the same manner required of Venezuelans while they reside in the territory of the Republic.

Art. 21. Without prejudice to the provisions of international agreements, all foreigners in Venezuela shall have the duties and the rights which this Constitution and the laws grant them; however, neither their rights nor their duties can be greater than those of Venezuelans.

The laws can establish restrictions regarding the exercise of the rights corresponding to all foreigners, or to a determinate class of them, when this is required as the result of grave motives of internal or external security or for reasons of public health.

Confiscation can be imposed only upon foreigners, and only in the event of conflict with their country.

Art. 22. All naturalized Venezuelans shall enjoy the same political rights as Venezuelans by birth, except for such restrictions as may be fixed by law.

Art. 23. All persons shall have the right to do that which does not prejudice others, and no one shall be obliged to do that which the law does not require, nor shall anyone be prevented from carrying out what the law does not prohibit.

Art. 24. In no case may nationals or foreigners claim that the Nation, the states, or the municipalities should compensate them for direct or indirect damages or expropriations which have not been executed by proper authorities acting in their public capacity.

Art. 25. The enunciation of the rights and duties made in this Title shall not be understood to be a denial of any other rights and duties which belong to the inhabitants of the Republic and which do not appear expressly in this Title.

Art. 26. No law, decree, ordinance, resolution, or regulation can diminish the rights granted by this Constitution to Venezuelans and to foreigners. All dispositions contrary to this principle shall be null, and the Supreme Court of Justice shall so declare them.

Art. 27. Whoever shall issue, sign, execute, or order the execution of decrees, resolutions, or ordinances which violate any of the rights guaranteed by this Constitution shall be culpable and shall be punished in accordance with the law, except in the cases of measures directed to the defense of the Republic or to the conservation or re-establishment of peace, dictated by competent public officials in their official capacity, in the cases foreseen by Articles 76 and 77 of this Constitution.

Art. 28. The period for the prescription of criminal actions corresponding to the crimes of violation of any of the individual guarantees shall be six years, and this period shall not begin to run, with respect to public officials, until the day following the date on which the person to whom the criminal act is attributed has ceased to exercise his public functions.

CHAPTER II

INDIVIDUAL GUARANTEES

Art. 29. The Nation guarantees to all its inhabitants the inviolability of life. No law shall establish the death penalty, nor shall any authority apply the said penalty.

Art. 30. The Nation guarantees personal liberty and security to all its inhabitants and, as a consequence:

(1) No one shall be subjected to forcible recruitment. Military service is compulsory and shall be rendered in conformity with the law.

(2) No one shall be arrested or detained, unless he has been caught in the act, without there first being issued a summary information setting forth the commission of a punishable offense calling for corporal punishment and the written order of the official authorized by the law to decree said detention, it being necessary always to set forth in the said order the reason therefor. The summary proceedings shall not in any case be prolonged for more than thirty days after judicial detention. In the crimes of injury, defamation, disrespect, or offense against persons or judicial, political, or administrative bodies invested with public authority, the accused shall be granted a trial, and he shall not be permitted to leave the place of the proceedings until the matter has been decided. Detention shall only follow by virtue of a final sentence.

(3) No one shall continue under detention if, by means of final judicial sentence, there shall have been destroyed the basis for such detention, nor shall anyone continue under detention after he has been granted freedom

under bond in those cases when the law permits this benefit. The granting and the forwarding of the bond shall not occasion any payment.

(4) No one shall be held *incomunicado*, or be obliged to take an oath, or be submitted to questioning in criminal cases against himself, or against his relatives within the fourth grade of consanguinity and the second grade of affinity, or against his spouse, or the person with whom he is living in marital status.

(5) No one shall be judged by specially created tribunals or commissions, except by his regular judges and by virtue of pre-existing law.

(6) No one shall be condemned in a criminal case without first having been personally notified of the charges and heard in the form provided by law.

(7) No one shall be deprived of his liberty for failure to perform civil obligations not defined as crimes by the law.

(8) No one shall be condemned to corporal punishment for more than twenty years.

(9) No one shall be condemned to opprobrious or perpetual punishment, nor shall anyone be submitted to tortures or other measures which cause physical suffering.

(10) No one shall continue to be deprived of his liberty after he has fulfilled the penalty imposed upon him.

(11) No one shall be tried for the same offense which was the basis of a previous trial.

Art. 31. The detentions which administrative authorities may make in conformity with the law shall not be subject to the provisions of section 2 of the preceding Article; however, the arrests which the said authorities may make shall not exceed a period of fifteen days and shall be granted pursuant to written resolution setting forth the reason therefor whenever such arrests are to exceed a forty-eight hour period.

The law shall determine the procedures to which repeated offenders shall be submitted.

Art. 32. All persons detained or taken in violation of the guarantees established in this Constitution regarding individual liberty may have recourse to *habeas corpus*. This recourse may be exercised by the person himself, or by any other person in his name, and it shall be admissible when the law does not provide for any ordinary judicial recourse against the order, act, or procedure which motivates it.

The law shall specify the tribunals which shall have jurisdiction and which shall decide in short and summary form the charges involved, as well as all the other conditions necessary for the exercise of this remedy.

Art. 33. The Nation recognizes asylum for political motives, subject only to the limitations established by the laws, the principles of international law, and public treaties.

Art. 34. All persons may travel freely throughout the national territory, change their domicile, absent themselves from the Republic and return thereto, bring their property into the country or remove it therefrom, without any limitations other than those established by the laws.

In no case may the entrance of nationals into the country be impeded arbitrarily.

Art. 35. The Nation guarantees the inviolability of the home, which cannot be entered by force except in order to prevent the commission of a crime or in order to execute the decisions which the tribunals of justice may dictate pursuant to law. The home shall be subject, in accordance with the law, to the visits of health and fiscal authorities, due notice hav-

ing first been given by the authorities or functionaries which order or make the inspection.

Art. 36. Oral, written, or any other form of correspondence shall be inviolable. No letters, telegrams, private papers, or any other means of correspondence shall be seized except upon fulfillment of the legal formalities by the judicial authority and preserving always all secrets relative to domestic and private life which have no bearing on the proceedings at issue. All books, vouchers, and accounting documents shall be subject to inspection or check by the competent authorities, in conformity with the laws.

Art. 37. The Nation guarantees the liberty of thought, manifested by word, by writing, by means of print, by radio, or other systems of publicity, as to which previous censorship cannot be established; however, there shall remain subject to punishment, in accordance with legal prescriptions, all expressions which constitute offenses against the public morals, contumely, defamation, disrespect, and instigation to transgress the law.

There shall be forbidden anonymous articles and war propaganda or propaganda which has as its object the provocation of disobedience to the laws, but this prohibition shall not limit the analysis or criticism of legal precepts.

Art. 38. The Nation guarantees the liberty of conscience and of worship, the latter liberty, however, being subjected to the supreme inspection of the national executive in accordance with the law.

Art. 39. No one shall be required to declare his religious belief or his political ideology, except when the law so requires it.

Art. 40. No one shall invoke religious beliefs or disciplines in order to avoid obedience to the laws of the Republic or to impede others in the exercise of their rights.

Art. 41. There is guaranteed the right to public or private assembly, for legal purposes and without weapons. The law shall regulate the right of public assembly and the right of manifestation.

Art. 42. There are guaranteed the rights of association and of syndicalization for lawful purposes; these rights shall be exercised in accordance with the laws.

Art. 43. There is guaranteed the freedom of petition before any public functionary or official entity, with the right to obtain an opportune reply.

Art. 44. The Nation guarantees the right of both active and passive suffrage in the terms set forth in this Constitution.

Art. 45. There is guaranteed to every citizen the right to accuse before the competent tribunals those officials who may be liable to punishment for the violation of their duties.

Art. 46. The Nation guarantees equality to all its inhabitants, by virtue of which:

(a) All persons shall be judged by the same laws and shall enjoy equally their protection.

(b) No titles of hereditary nobility or distinction shall be granted, nor shall racial discrimination be permitted.

(c) The identification of a person in documents relating to his civil status shall not contain any mention of the nature of his filiation, establish any difference in births, or indicate the civil status of his parents.

(d) No other official style of address shall be given except that of "Citizen" and "You," except for diplomatic protocol.

CHAPTER III

OF THE FAMILY

Art. 47. The State shall protect the family no matter what its origin, as well as motherhood, regardless of the civil status of the mother, who shall, further, be assisted in case of abandonment.

Art. 48. The law shall determine all matters relative to the organization of the family patrimony which shall not be subject to attachment.

Art. 49. The State guarantees the full protection of the child from its conception until its full growth, in order that such growth might be realized in an environment of material and moral security.

As a consequence, there shall be established, among others, the conditions necessary:

- (a) In order that the children might enjoy the right to know their parents;
- (b) In order that the parents might fulfill their duty to aid, educate, and feed their children, regardless of what the filiation of the same might be;
- (c) In order that minors might be protected and judged by special laws;
- (d) In order to prevent the exploitation of minors in work.

The State shall share with the parents, in a subsidiary manner and within the economic possibilities of the parents, the responsibility incumbent on them for the rearing of their children.

A special code shall govern this protection and shall establish an organization charged with the administration of the same.

Art. 50. The State shall adopt measures for the elimination of the social causes of prostitution and shall watch over the recovery of those affected by it.

CHAPTER IV

OF HEALTH AND SOCIAL SECURITY

Art. 51. The State shall watch over the maintenance of the public health.

All inhabitants of the Republic have the right to the protection of their health. The State shall establish the services necessary for the prevention and treatment of sicknesses.

Art. 52. The inhabitants of the Republic have the right to live protected against the risks of a social nature which might affect them and against the want which results from them.

The State shall establish, in progressive form, an ample and efficient system of social security and shall stimulate the construction of low-cost housing destined for the economically needy class.

CHAPTER V

OF EDUCATION

Art. 53. There is guaranteed to all the inhabitants of the Republic the right to an education.

Education is an essential function of the State, which shall have the obligation to create and maintain institutions and services sufficient to attend to the educational needs of the country and to furnish to the Venezuelan people the indispensable means for improving their cultural level.

Art. 54. National education shall be organized as an integral process, correlated in its various terms, and it shall be aimed to achieve the harmonious development of the human personality, in order to create citizens fit for life and for the exercise of democracy, to stimulate the culture of the Nation and to develop the spirit of human solidarity.

Art. 55. There is guaranteed the liberty of instruction. All natural or juridical persons may dedicate themselves freely to the sciences and arts, and found chairs and establishments for the teaching of the same, under the supreme inspection and vigilance of the State, with the limitations and within the conditions of orientation and organization which the law may fix.

The State may establish, as its exclusive function, all matters relating to national professorships and teaching.

Art. 56. Private initiative in educational matters shall deserve the encouragement of the State, provided that it is in accordance with the principles contained in this Constitution and in the laws.

Art. 57. Education must be in charge of persons qualified to teach, verified in accordance with the law.

The State guarantees to professional teachers working conditions and a level of life consonant with their high mission.

Art. 58. Primary education is obligatory. Education granted in official establishments is free for all. In accordance with the law, the State shall grant to those individuals who lack the resources the means necessary to permit them to complete their educational obligation and to pursue their studies without any limitations other than those derived from their vocation and their aptitude.

Art. 59. The artistic and historic wealth of the country shall be under the control and protection of the State, in accordance with the law.

Art. 60. The professions which require a diploma cannot be exercised without first possessing the same and without first fulfilling the formalities required by law. The law shall determine those professions which must be exercised by means of the granting of a diploma by the State.

Special Paragraph: The State reserves the right to require that professional men lend their services to the Nation and in conformity with the provisions of law.

CHAPTER VI

OF WORK

Art. 61. Work is a duty and a right. Every individual must contribute to the progress of society by means of work. The State shall see to it that every competent person can obtain the means of subsistence through work and because of this it shall prevent the establishment of any conditions which in any form might diminish the dignity or the liberty of persons.

Art. 62. The law shall provide for all that which may be necessary for the greater efficiency, responsibility, and encouragement of work, adequately regulating and establishing the protection which must be granted to workers in order to guarantee their stability in their work and the betterment of their material, moral, and intellectual conditions. The Nation shall encourage the technical instruction of workers.

Art. 63. Labor legislation shall consecrate the following rights and precepts, applicable to manual labor as well as intellectual or technical

labor, in addition to other rights which may contribute to the betterment of the conditions of the workers:

(1) Maximum normal work day of eight hours for day work and seven hours for night work, except for specified work, with weekly remunerated rest day, in accordance with the law. The law may establish a progressively smaller maximum work day, in general, or for determinate industries in particular;

(2) Equal salary for equal work, without distinction for sex, nationality, or race;

(3) Minimum subsistence salary, sufficient to satisfy the needs of the worker;

(4) Annual paid vacations, without distinction between laborers and employees;

(5) Liability for occupational risks;

(6) Prior notice payment and indemnity in case of termination or rupture of the work contract, length of service payment and pension after a fixed period of service, subject to such conditions as the law may fix;

(7) Stability of work for the members of the board of directors of workers' syndicates, except in cases of withdrawals that are fully justified;

(8) Collective labor contract, in which a closed shop clause can be included;

(9) Conciliation in order to settle the conflicts between employers and workers;

(10) The right to strike, except in the public services that may be fixed by law;

(11) Special protection in the work of minors and women with the right, in the case of minors, to apprenticeship and the setting of a minimum age for admission into the various types of work, and, in the case of women, remunerated rest both before and after childbirth;

(12) A system of participation in the profits of companies in favor of employees and laborers, and the encouragement of savings among the same;

(13) The responsibility for complying with social laws, on the part of the natural or juridical person for whose benefit the work is being done, even when the labor contract shall be entered into by an intermediary or contractor, without affecting the responsibility of the latter;

(14) Non-attachability of salary to the extent and in those cases fixed by law;

(15) Immunity of the money of workers, when such money comes from benefits or rights granted by the law;

(16) Non-renounceability of the provisions of law which favor the workers.

Art. 64. The State shall see to the establishment of the salary for workers with families through adequate institutions in conformity with the law.

CHAPTER VII

OF THE NATIONAL ECONOMY

Art. 65. The Nation guarantees the right of property. By virtue of its social function, property shall be subjected to the contributions, restrictions, and obligations established by law for purposes of public utility or of the general welfare.

Every author or inventor has an exclusive property right in his work or invention, and he who invents a trade mark has the right to exploit it; all of this to be in conformity with the provisions established by the laws and by treaties.

The law may establish special prohibitions covering the acquisition, transfer, use, and enjoyment of specified classes of property, be it because

of the nature of said property, its quality, or its location in the national territory.

Art. 66. The State shall look to the defense and conservation of the natural resources of the Venezuelan territory and shall regulate the use, enjoyment, and exploitation of the same, in accordance with the objects previously cited.

Art. 67. In conformity with the law, the expropriation of any type of property shall be declared only for reasons of public utility or social welfare, by means of final sentence and upon payment of the price of the same.

In those cases where there is involved the expropriation of lands destined for the realization of the agricultural reform and of the expropriation of real property for the purposes of extension and improvement of population centers, the payment for the same may be deferred for a determinate period of time, a sufficient guarantee first having been given, in conformity with the provisions of law.

No confiscation of property of any kind shall be decreed or carried out, except as provided in the third paragraph of Article 21 of this Constitution.

Art. 68. The right of private territorial property shall be conditioned on the preceding provisions and on the obligation to keep the lands and woods which are its object in production that is socially useful. The law shall determine the operation of this provision and the conditions for its application.

Art. 69. The State shall carry out a planned and systematic action aimed to transform the national agrarian structure, to rationalize agricultural and cattle raising exploitation, to organize and distribute credit, to better living conditions of rural areas, and to promote the progressive economic and social emancipation of the rural population.

A special law shall determine the technical conditions and other conditions consonant with the national welfare by means of which it shall make effective and workable the exercise of the right which the Nation recognizes in farm associations and in individuals, qualified for farm or cattle-raising work but who lack tillable lands or who do not possess the same in sufficient quantity, to be granted the said lands and the means necessary to make them produce.

Art. 70. All the lands acquired by nationals or foreigners in the Venezuelan territory and destined for the exploitation of mineral concessions, including petroleum and other combustible minerals, shall pass in full title to the patrimony of the Nation, without any compensation, upon the extinguishment for any reason of the respective concession.

Art. 71. The State shall support and encourage the organization of all types of co-operatives and institutions designed for the betterment of the economy of the people. The law shall assure the timely supplying of the necessary technical, administrative, and economic means.

Art. 72. It is the duty of the State to obtain the incorporation of the Indians into the national life.

A special legislation shall resolve all matters related to this subject, having due regard for the cultural characteristics and the economic conditions of the Indian population.

Art. 73. All persons may dedicate themselves freely to commerce, industry, or the exercise of any other lucrative activity, without any

limitations other than those established by this Constitution and the laws for reasons of health or public safety. The State shall protect private initiative; however, it can reserve for itself the exercise of determinate industries, exploitations, or services of public welfare in order to assure their normal functioning or the defense or the credit of the Nation, and the State shall also reserve the right to dictate measures of an economic nature in order to plan, rationalize, and stimulate production, and to regulate the distribution and the consumption of wealth for the purpose of achieving the development of the national economy.

No monopolies shall be granted; nevertheless, concessions may be granted, of an exclusive nature and for a limited period of time, in order to stimulate the establishment and the development of works or services involving public welfare, provided that there shall not be involved, directly or indirectly, the obligation to guarantee income or profits to invested capital.

Art. 74. Exportation cannot be prohibited or limited except when the general welfare of the Nation requires the same.

Art. 75. The Republic shall have a council of national economy composed of representatives of capital, labor, the liberal professions, and the State, in the form and with the attributes determined by law.

CHAPTER VIII

OF THE SUSPENSION AND RESTRICTION OF GUARANTEES

Art. 76. In cases of civil or international war, or when there is an imminent danger that one or the other might occur, or in cases of grave circumstances which affect the economic or social life of the Nation, the President of the Republic, in session with the council of ministers, may restrict or suspend in all or in part of the national territory the exercise of constitutional guarantees, except for those consecrated in Article 29 and in section 9 of Article 30 of this Constitution.

The decree of restriction or suspension of guarantees shall set forth the following:

- (1) The motives which justify it;
- (2) The specification of the guarantees which are to be restricted or suspended;
- (3) The territory to be affected by the restriction or suspension.

Guarantees shall be restricted or suspended only to the extent required for the security of the country and the restoration of normality, and the decree which orders the restriction or suspension shall be submitted to the National Congress, or to the permanent commission of the same, within ten days following its promulgation, and it shall be annulled upon termination of the causes which motivated it.

Art. 77. If the circumstances do not require the restriction or suspension of guarantees, but there are well-founded indications of the existence of plans or activities which have as their object the destruction of constituted powers, by means of a coup d'état or other violent means, the President of the Republic, in session with the council of ministers, may order the preventive detention of those persons whom there is strong reason to consider as implicated in said plans or activities. These measures shall be submitted, within ten days following their execution, to the considera-

tion of the National Congress or, during the recess of that body, to the permanent commission, for approval or rejection; and they shall be suspended upon termination of the causes which motivated them. If they shall be approved by the National Congress or by the permanent commission and shall not have been suspended within sixty days following the said approval, the President of the Republic, upon termination of that period of time, shall submit the said measures to the cognizance of the Supreme Court of Justice which shall decide concerning their continuation or suspension, taking into consideration, in addition to the dispositions of law, the security of the State and the preservation of public order.

Art. 78. The restriction of guarantees shall in no case affect the functioning of the public powers of the Nation, whose members shall always enjoy the prerogatives recognized by law.

TITLE IV

OF SOVEREIGNTY AND THE PUBLIC POWER

CHAPTER I

OF SUFFRAGE

Art. 79. Sovereignty resides in the people, who may exercise it by means of suffrage and through the agency of the public power.

Art. 80. Suffrage is the special right and public function of all Venezuelans; nevertheless, it may be extended for municipal elections and in accordance with the law to foreigners who have more than ten years of uninterrupted residence in the country.

Art. 81.¹ There shall be considered as electors all Venezuelans, male and female, over eighteen years of age, not subject by definitely final sentence to civil interdiction or to criminal punishment which carries with it political disqualification.

Art. 82. There shall be eligible and competent for the fulfillment of any public office all electors who know how to read and write and are over twenty-one years of age, without any restrictions other than those established in this Constitution and those derived from the conditions of fitness which, in order to carry out the determinate offices, the law might require.

Art. 83. The law shall regulate concerning the principle of proportionate representation of minorities, and shall see to it that no political party or group shall predominate in the electoral agencies.

CHAPTER II

OF THE PUBLIC POWER AND ITS EXERCISE

Art. 84. The public power shall be exercised in conformity with this Constitution and the laws which define its attributes and faculties. Every act which goes beyond the said definition shall constitute a usurpation of attributes.

Art. 85. Since the Republic has possession of the right of ecclesiastical patronage, it shall exercise the same in conformity with the law. Nevertheless, there may be celebrated agreements or treaties to regulate relations between the Church and the State.

¹ Voting age under Art. 32 of 1936 Constitution is twenty-one.

Art. 86. The public power shall be distributed among the municipal, state, and national powers; and its organization and functioning shall be governed in all cases by the principles of republican, federal, popular, representative, alternative, and responsible government.

Art. 87. All usurped authority shall be ineffective and acts done under it shall be null. All decisions taken through direct or indirect use of force or through assembly of the people in subversive attitude shall be equally null.

Art. 88. The exercise of the public power occasions the responsibility of the individual for exceeding the authority which this Constitution fixes or for violation of the law which determines its functions, in the terms established in the Constitution itself.

All public officials shall also be subject to punishment, in accordance with the law, for the offenses committed by them.

Art. 89. Every public official shall be obligated to take an oath before taking office, to make a sworn statement of his property in those cases fixed by law, and to submit to all the requisites and consequences determined by law for the exercise of offices which involve the administration of public funds.

Art. 90. The State shall dictate a statute which shall govern its relations with public officials and employees in which the rules for entering into office, leaving office, removal, suspension, and retirement shall be established.

All public employees shall be at the service of the Nation and not of any political party.

Art. 91. No one shall fulfill more than one remunerated public office at any one time. The acceptance of a second office of this kind shall imply the renunciation of the first. There are excepted from this disposition all casual, academic, electoral, professorial, public-medical, and municipal-council offices.

Art. 92. No public employee shall accept any offices, honors or compensations from foreign governments without obtaining the proper authorization from the Senate chamber. All violators shall be punished in conformity with the law.

CHAPTER III

OF THE NATIONAL ARMED FORCES

Art. 93. The national armed forces constitute a non-political institution, essentially professional, obedient, and not deliberative; and shall be organized in order to guarantee the national defense, maintain internal stability, and support the fulfillment of the Constitution and the laws.

In time of peace it shall not be permitted to requisition or demand assistance of any kind except from the civil authorities and in the form and manner determined by the law.

Art. 94. The national armed forces shall be classified and organized in conformity with the law and they shall have the special duties fixed by the law.

Art. 95. The State shall see to it that the organization and functions which are assigned to the national armed forces correspond always to the standard of dignity of their members and to the concept of an impersonal institution at the exclusive service of the Nation.

The military armed forces shall have as their special mission that of guaranteeing the national defense, and only in those circumstances set forth by the law may they be assigned other incidental functions which, in all cases, shall refer to the maintenance of public order.

Art. 96. The military armed forces shall be composed of that contingent which, in proportion to its population, may be called to the service in each one of the states, in the federal district, and in the federal territories and dependencies, in accordance with the law.

Art. 97. The states and municipalities shall not maintain other forces except those of the municipal police.

Art. 98. All weapons of war which may be found in the country, or which may be brought in from the exterior, belong to the Nation and they shall be under the control of the executive office fixed by law.

Art. 99. As long as they remain in active service, the members of the national armed forces shall not exercise the right of suffrage, belong to any political parties, or take part in their activities.

Art. 100. On election days the national armed forces shall have permanent service assignment and they may leave their barracks only for the purpose of guaranteeing public order and the normal and free prosecution of the elections.

Art. 101. Military ranks shall be obtained only in conformity with the law, and those who possess them cannot be deprived of them or of the honors and pensions pertaining thereto, except in those cases and in the manner determined by law.

Art. 102. The President of the United States of Venezuela is the commander-in-chief of the national armed forces, and he shall command them through the executive offices and by means of those officials fixed by law.

Art. 103. The supreme council of national defense is the chief agency of direction and co-ordination of the national armed forces, and it shall be composed of the President of the Republic, who shall preside over the same, and of the members of the executive cabinet and of those functionaries of said armed forces which the law may determine.

CHAPTER IV

OF INTERNATIONAL RELATIONS

Art. 104. The Nation shall co-operate in the international community for the realization of the ends of security and common defense, in accordance with the provisions of this Constitution and of international pacts duly approved and ratified.

Art. 105. All international treaties, agreements, or accords which the executive power may celebrate must be approved by the National Congress in order to be valid, except those which deal with the execution or perfection of pre-existing obligations of the Republic, or with the application of principles expressly recognized by the Republic, or with the execution of ordinary acts concerning international relations or the exercise of faculties which the law expressly attributes to the executive power.

Nevertheless, the permanent commission of the National Congress may authorize the temporary execution of international treaties or accords whose urgency may require the same, which treaties or accords shall be submitted in all cases to the subsequent approval or rejection of the legislative chambers.

In all cases, the national executive shall give an account of the treaties, agreements, or accords made by him, indicating the exact character and contents of the same, to the legislative chambers at their next sessions, regardless of whether or not they are subject to their approval.

Art. 106. In all international obligations entered into by the Republic, there shall be inserted a clause by which the parties obligate themselves to decide through peaceful means recognized in international law, or previously agreed upon by them, should such be the case, all controversies which might arise among them concerning the interpretation or execution of the pact, provided that this is deemed necessary considering its nature, or provided that the procedure which must be followed for its celebration permits of the same.

Art. 107. No contract involving the national, state, or municipal public welfare shall be made with foreign governments, nor may such a contract be transferred in whole or in part to any foreign government. Nor shall any contracts be made with companies which are not domiciled in Venezuela, nor may there be transferred to such companies any contracts made with third parties.

In order to make such contracts with official or semi-official foreign entities having juridical autonomous personality, or in order to transfer such contracts to them in whole or in part, the authorization of the legislative chambers, or of the permanent commission in those urgent cases where the chambers are in recess, shall be required in all cases.

Art. 108. In those contracts to which the previous article refers, if it is deemed compatible with the nature of the same, there shall be incorporated, even though not specifically expressed, a clause in which it is established that all doubts and controversies which may arise concerning the said contracts, and which shall not be settled amicably by the contracting parties, shall be decided by the competent tribunals of Venezuela in accordance with its laws, without any motive or reason which might give rise to a foreign claim.

TITLE V

OF THE MUNICIPAL POWER

Art. 109. The municipal power shall be exercised in each district of the states, in the federal district, and in the federal territories by the municipal council which shall enjoy full autonomy in all matters concerning the economic and administrative management of the municipality, with no restrictions other than those established by this Constitution.

The organic law of the federal district shall establish, nevertheless, a special regulation for its municipal power, in accordance with the needs of the departments which constitute it.

Art. 110. In their character of moral persons of public law, all municipalities shall be legal entities, and their representation shall be incumbent upon the municipal council as deputy of the cities which make up the district.

Art. 111. The Nation guarantees the autonomy of the municipalities and, by virtue thereof:

(a) Municipal councils shall not be interfered with in the exercise of their functions by national or state authorities, and the ordinances, accords, or

resolutions which they may issue shall not be vetoed nor in any manner impugned, except before the competent judicial authority in those cases and in the manner fixed by law.

(b) No national or state authority shall restrain, hinder, or suspend municipal officials in the exercise of their functions. Only judicial authorities, by means of the procedure and for causes fixed by law, may decree the suspension of officials of the municipal power when they are guilty of the violations set forth in the appropriate law.

(c) All authorities shall respect the fiscal autonomy of the municipalities and, as a result, they shall abstain from invading the power which belongs to them to organize and administer their income or to collect from the said income all or part of the sums of money collected by the municipality.

(d) The municipalities shall not be required to pay for the national or state services which may be organized for their benefit and the administration of which they have not assumed except when such obligation results from legally celebrated contracts.

Art. 112. The following are within the jurisdiction of the municipal power:

(1) To organize its own services of police, food supplies, cemeteries, municipal embellishment, civil architecture, public lighting, aqueducts, city transportation, credit institutions, and other institutions of a municipal character;

(2) To organize its own services of social assistance, subject to national laws and regulations and under the inspection and vigilance of the respective national service, without prejudice to the provisions of section 18 of Article 138 of this Constitution;

(3) To organize services adequate to combat desertion, vagrancy, alcoholism, illiteracy, and prostitution, in accordance with the respective national laws and regulations;

(4) To stimulate and promote city building in accordance with the rules established by law and in co-ordination with national technical agencies;

(5) To organize and administer its own income, which shall consist of monies derived from the following sources:

(a) License fees from industry, commerce and all types of vehicles;

(b) Taxes and contributions from city realty and public spectacles;

(c) Sale, rental, or exploitation of municipal lands and other municipal property, without prejudice, with reference to alienation of municipal lands, to the provisions of Article 119 of this Constitution;

(d) Fees from weights and measures controls, aqueducts, cemeteries, public lighting, and other municipal services;

(e) The income from money fines imposed by municipal authorities in the exercise of their legal attributes, and the income which by virtue of special laws is destined for the municipal treasury, regardless of the authority imposing the said fines;

(f) The part of the constitutional allowance which is due the municipalities pursuant to Article 238 of this Constitution, and

(g) Other income of a municipal character.

Art. 113. The National Congress may, by special law, attribute other revenue matters to the municipal authority.

Art. 114. The members of the municipal councils shall be elected by universal, direct, and secret vote, in conformity with the law.

Art. 115. The president of the municipal council is the requisite agency for the execution of the decisions of that body, and he shall be elected by the body from among its own members in accordance with the law.

Art. 116. The office of councilman is obligatory and is incompatible with any remunerated office of the executive branch, except for casual, academic, teaching, and public-medical offices.

Art. 117. In the exercise of their autonomy, the municipalities shall respect the provisions of Articles 121 and 138 of this Constitution and shall be subject to the restrictions set forth in Article 127 of the same.

Art. 118. The Nation recognizes that for the progress and development of population centers the possession of municipal lands is an indispensable condition; and consequently, in conformity with the law, the Nation shall draw up a tax list of municipal lands; further, it shall endow each municipality with such lands and it shall lend its assistance for the recovery of municipal lands which are or may be unjustly occupied.

Art. 119. Municipal lands shall be inalienable and cannot be prescribed against, except for constructions in those cases and subject to the formalities fixed in the respective municipal ordinances.

TITLE VI

OF THE POWER OF THE STATES

CHAPTER I

GENERAL PROVISIONS

Art. 120. The states shall reciprocally recognize one another's autonomy; they are declared to be equal as political entities; they shall retain fully the power in all matters not reserved by this Constitution to other powers, and they declare that their first duty is the conservation of the independence and the integrity of the Nation. Consequently, the states can never break the national unity, nor can they ally themselves with foreign powers, nor can they solicit their protection, nor can they cede to them any portion of their territory, but they shall defend themselves and the Nation against any violence contrary to the national sovereignty.

Art. 121. The states shall have the following powers:

- (1) To preserve their present names or to change them;
- (2) To dictate their own constitutions or to organize and elect their own public powers, in conformity with this Constitution and the laws;
- (3) To establish or modify their political-territorial division;
- (4) To administer their own property, subject to the exceptions set forth in section 12 of Article 138, and to dispose of the constitutional allowances and other income to which they are entitled, subject to the provisions of Articles 238 and 247 of this Constitution;
- (5) To decree, in connection with reproductive works or works of public welfare, internal loans the annual obligations of which shall in no case exceed ten per cent of the ordinary estimate of their income;
- (6) To promote and stimulate the development of production and the increase of matters of general welfare to the states and to co-operate with the national or municipal power for the better supplying of food to the people and for the maintenance of a normal level of prices on articles of prime necessity in order to avoid speculation and the high cost of living;
- (7) To open and keep under repair local roads and to carry out those public works of the state which may be necessary, without prejudice to the right which belongs to the Nation and to the municipalities to undertake for their own account whatever public works they may determine.

All public works requiring the same must be previously submitted for the approval of the proper national technical agencies;

(8) All those other powers not expressly reserved by this Constitution or by the laws to the Nation or to the municipalities.

Art. 122. The states shall give full faith to the public acts of national authorities, of other states, and of municipalities and shall see to it that they are carried out and executed.

Art. 123. Without prejudice to the right to require the services of the state powers in all cases in which they must lend their co-operation to the national government, the latter may maintain in the territory of the states all necessary national officials and employees, as well as the officials, soldiers, and employees of the armed forces.

The army leaders and other national employees within the states shall have jurisdiction only in those matters which relate to their respective business, with no exemption or privilege to differentiate them from the other citizens residing in the respective state; nevertheless, the state shall not impose on them duties which may be incompatible with the national service which has been charged to them.

Art. 124. The states can neither declare nor make war in any case, and they shall keep strict neutrality in those dissensions which might occur among other states, as long as they are not required to act on behalf of the national government, to which they must lend their co-operation in measures which it might dictate for the re-establishment of peace.

Art. 125. The states shall not permit in their territory any enlistments or levies which might have as their object an attack upon the peace, liberty, or independence of other nations, or which might disturb the internal peace of the Republic.

Art. 126. The national government may establish in the territories of the states fortifications, piers, arsenals, shipyards, airdromes, penitentiaries, quarantine stations, and other works necessary for the national administration.

Art. 127. The states may not:

- (a) Negotiate loans abroad;
- (b) Create customs, charge import, export, or transit duties on foreign goods in transit and destined for foreign territory, or charge taxes in other fields of public revenue which belong to the national or municipal authority;
- (c) Charge taxes on the transit of any class of property, national or foreign;
- (d) Maintain any forces other than those of the municipal police;
- (e) Prohibit the consumption of goods produced outside their jurisdiction, or burden the same with taxes different from these which are paid for the consumption of the same class of goods when they are produced within the state;
- (f) Tax any class of consumable goods, national or foreign, except upon its entrance into circulation within the state;
- (g) Create taxes on grazing cattle or on their products or by-products.

CHAPTER II

OF THE ORGANIZATION OF THE STATES

Section I

Of the Legislative Power

Art. 128. The exercise of the legislative power and the control of the state administration belong to the legislative assembly, which shall ordi-

narly meet in the capital of the state on the first of June of each year, or on the nearest possible date thereafter.

Art. 129. The legislative assembly shall be elected by direct, universal, and secret vote, in accordance with the law, and its composition shall be governed by the constitutions of the respective states.

Art. 130. The office of representative in the legislative assembly during its entire respective term is incompatible with any office in the executive branch, except those of an academic, teaching, or public-medical character.

Art. 131. The following are the attributes of the legislative assemblies:

(1) To dictate the constitution and the organic laws of the state and to legislate on all matters corresponding to the authority of the same;

(2) To approve or reject the official conduct of the governor of the state. The rejection of the same shall occasion, as a matter of law, the removal of the governor when this shall be decided upon by two-thirds of the members of the assembly;

(3) To approve or modify the proposed budget law of public income and expenditures presented to them by the governor of the state, without diminishing the provisions of Article 238 of this Constitution; and

(4) All other powers granted to them by this Constitution, the state constitution, and the laws.

Section II

Of the Executive Power

Art. 132. The government and the administration of the state, to the extent that they are not attributed to other authority, are within the power of the governor who, together with his secretaries, shall exercise the executive power in accordance with this Constitution, the state constitution, and the laws.

Art. 133. In order to be governor, it is necessary to be a Venezuelan by birth, of age, of secular status, and in full exercise of one's civil and political rights.

Art. 134. The governor is the agent of the national power in the respective state, in which capacity he shall carry out and cause to be fulfilled the Constitution and the laws of the Republic, and he shall execute the orders and resolutions of the national executive power in those matters within the scope of same.

Art. 135. In addition to their functions as agents of the national powers, the governors shall have the following duties and attributes:

(1) To name and remove their secretaries, all officials of the executive branch, and other employees under them, without prejudice to the provisions of the laws which regulate the administrative career;

(2) To present annually a detailed report of their government and an account of their administration to the legislative assembly for its approval or rejection;

(3) To present annually to the state assembly the proposed budget law of public income and expenditures for their consideration and approval, and

(4) Such other duties and powers as are granted to them by the constitutions and laws of the states.

Art. 136. During the temporary absences of the governor, his place shall be filled by the secretary designated by him.

TITLE VII

OF THE NATIONAL POWER

CHAPTER I

GENERAL PROVISIONS

Art. 137. The national power is divided into legislative, executive, and judicial.

Each one of the branches of the national power shall have its own functions; nevertheless, the bodies carrying out each power shall collaborate among themselves and with the other public powers in the realization of the purposes of the State.

CHAPTER II

OF THE AUTHORITY OF THE NATIONAL POWER

Art. 138. The following powers belong to the national power:

(1) The international actuation of the United States of Venezuela as a sovereign Nation;

(2) All matters concerning the flag, coat of arms, national anthem, and holidays and decorations and honors granted by the Republic;

(3) The defense and supreme vigilance of the general welfare of the Nation, the conservation of public peace, and the just application of the laws in the entire national territory;

(4) The administration of justice, the public ministry, and the management of prisons and penitentiaries;

(5) The organization and management of the federal district and of the federal territories and dependencies;

(6) All matters concerning elections, naturalization, admission, and expulsion of foreigners, immigration, and colonization, expropriation for public or social utility, literary, artistic, and industrial property, and public registry;

(7) The administration of weights and measures;

(8) All matters relating to banks and other credit institutions, without prejudice to the provisions of section 1 of Article 112 of this Constitution;

(9) All matters relating to the national monetary system and to the circulation of foreign money in the country;

(10) The organization, control, collection, and investment of taxes on income or capital; of taxes from fiscal stamps, inheritance, registrations, alcohol and liquor, matches, tobacco and cigarettes, mines and petroleum, and other incomes not attributed to the states or to the municipalities which the law may create as national taxes;

(11) The administration of customs, and the organization, control, collection, and investment of taxes and fees collected therefrom;

(12) The administration of salt-pits, public lands, mines and petroleum and pearl oyster beds, and the conservation, development, and use of forests, waters, and other natural resources of the country. The national executive may sell, lease, or give as a gift public lands, granting always the right of preference in favor of the occupants; however, it may not alienate salt-pits or grant mineral concessions for an indefinite period of time. The income from the said property, including the product of the sale of public lands, shall enter the national treasury.

Public lands existing in the maritime, river, and lake islands shall not be alienated, and their use may be granted only in a form which does not involve, directly or indirectly, the transfer of the ownership of the land. The law may establish a system of special economic grants for the benefit of the states in whose territory the property mentioned in this section is situated;

(13) All matters relative to the national armed forces and to the component parts thereof;

(14) The organization of the census and of national statistics.

For all transactions in which population must be taken as a basis, for the Nation as well as for the states, the federal district, the federal territories, and the federal dependencies, the last census of the Republic approved by the National Congress shall serve as standard;

(15) The planning and execution of national public works;

(16) The opening and maintenance of national roads, aerial traction cables, and railroad cables, even though they may be within the limits of one state, except in the cases of trolley-cars or city traction cables, the granting and regulation of which shall belong to the respective municipalities;

(17) All matters relating to national education;

(18) The technical direction, the establishment of administrative standards, and the co-ordination of services destined for the defense of public health. The law may establish the nationalization of these public services in accordance with the collective welfare;

(19) All matters relating to the health of animal and plant life;

(20) The conservation and stimulation of agriculture and cattle raising;

(21) All matters relating to labor, insurance, and social security;

(22) All matters relating to land, maritime, aerial, river, and lake transportation;

(23) All matters relating to the management of mails, telegraphic services, telephones, and wireless communications;

(24) The regulatory legislation for the guarantees granted by this Constitution, the civil, mercantile, penal, and procedural legislation, and the legislation relating to all matters of national cognizance; and

(25) All other subjects which the present Constitution grants to the national powers.

Art. 139. The legislative chambers, by a vote of two-thirds of their members, may attribute to the states or to the municipalities determinate subjects which belong to the national power for the purpose of promoting administrative decentralization. Equally, the chambers may legislate concerning the organization and functioning of the police service in the entire territory of the Republic by means of the procedure and with the majority decision fixed in this Constitution for the validity of laws.

Art. 140.¹ The constitutional terms of the national public powers shall be for a duration of five years.

CHAPTER III

OF THE LEGISLATIVE POWER

Section I

General Provisions

Art. 141. The exercise of the legislative power belongs to the National Congress, which shall be composed of two chambers: the Chamber of Deputies and the Chamber of Senators.

Art. 142. The following shall not be elected as deputies or senators:

(1) The President of the Republic and the ministers of the executive offices, the judges of the Supreme Court of Justice; the attorney general of the Nation, the solicitor general of the Nation, and the comptroller general of the Nation, until three months following their separation from office;

(2) All relatives of the President of the Republic within the second grade of consanguinity or affinity;

¹ Terms of members of Congress are four years under Article 55 of 1936 Constitution.

(3) The governors of the states, of the federal district, and of the federal territories, while they are in possession of their offices and for three months following the end of their terms;

(4) The directors, administrators, or representatives of official autonomous institutes, or of agencies or companies in which the state has a decisive economic participation, as long as they are in possession of their respective offices and for three months following the end of their terms;

(5) Any other public functionary or employee who, as of the date of his nomination or within thirty days prior to the date of his election, shall occupy a remunerated office, except in the cases of casual, electoral, teaching, or public-medical, or legislative offices;

(6) All citizens who, as of the date of their nomination or within thirty days prior to the date of their election may have acted in their own name or in the interest of another as contractors or managers of state businesses, in the cases determined by law.

Art. 143. Any deputy or senator may be named as a minister of state of the national executive, and he may be made head of any diplomatic mission, with the right to return to the body of his respective chamber upon termination of his functions; however, he may not accept any other remunerated public offices during the entire period of his trust, or within six months following the termination of the same, except that he may act as substitute until the principal actually takes over, and except in the cases of temporary, electoral, academic, teaching, or public-medical offices, in those cases determined by law.

Art. 144. No deputy or senator may celebrate in his own name or as representative of another any contract with the Nation, the states, or the municipalities, nor may he handle any claims of third persons before them.

Art. 145. Deputies and senators shall not be answerable, at any time, for the opinions which they may issue in the exercise of their functions.

Art. 146. During the period of their trust, no deputy or senator shall be taken, arrested, confined, or in any manner detained or restrained in the exercise of his functions, unless he is caught in the commission of a crime. In such latter case, and in any other case in which there shall be imputed to a deputy or senator the commission of a punishable offense, a report shall immediately be made to the respective chamber, which shall have jurisdiction, by a vote of two-thirds of its members, over the corresponding trial and the suspension from office of the indicted member, who shall be reincorporated into the chamber upon the destruction by final sentence of the basis of the proceedings.

In all cases, the investigating chamber shall order the initiation, continuation, or stoppage of the procedure within five days from the session in which the report shall have been made concerning the charges.

Art. 147. Both chambers shall be vigilant to the end that there is fully respected the immunity which protects their members, and they may order the stoppage of proceedings initiated against their members and the freedom of any member who may be under detention for the duration of the sessions or for the period required for the termination of the respective constitutional term. Nevertheless, they must authorize the continuation of the proceedings when any deputy or senator who is a member of said chamber shall expressly request the same.

Art. 148. During the recess of the legislative chambers, the permanent commission shall have jurisdiction over all causes which may affect the immunity of deputies and senators; however, their decisions shall require

the vote of two-thirds of their entire memberships, and they shall be of no effect unless ratified by the respective chamber in the sessions of the National Congress immediately following.

Art. 149. The law shall fix the monthly emoluments which the deputies and senators shall receive for their services during their full term of office; nevertheless, any increases which the chambers may grant in the said remuneration shall become effective only at the beginning of the new term of the chambers.

Art. 150. The law shall determine the manner of filling permanent vacancies in the membership of both chambers when the respective list of substitutes shall have become exhausted.

Second Section

Of the Chamber of Deputies

Art. 151. In order to form the Chamber of Deputies, the electors of each district shall elect, by universal, direct, and secret ballot and in accordance with the applicable law, a deputy for each forty thousand inhabitants¹ and one additional for the excess of not less than twenty thousand. The electoral district the population of which is not sufficient to elect two deputies shall elect this number in any case.

The federal territories shall elect a total of two deputies, in the manner which the law may prescribe.

First Paragraph: There shall likewise be elected in compliance with the law, alternates who will have to fill the permanent or temporary vacancies of the principals.

Second Paragraph: On regulating the principle of proportional representation of minorities, the law may provide for the election of additional deputies.

Art. 152. Venezuelans who fill the conditions provided in Article 82 of this Constitution and who are not included in the eventualities provided in Article 142, may be elected deputies; but Venezuelans by naturalization must, in addition, be domiciled in the country and have been naturalized for a period of not less than eight years.

Art. 153. The exclusive duties of the Chamber of Deputies are:

(1) To initiate and permit discussion of the proposed law of the general budget of public income and expenditures, and any other pertaining to the taxing powers of the Nation;

(2) To impeach the ministers of state.

The motion for impeachment must first be referred to the secretary of the chamber. It can only be discussed forty-eight hours after its presentation and shall be carried out only if it is approved by a two-thirds part of the deputies present, who, at the same time, if the impeachment carries, shall order the removal of the minister. In such case, the vote of impeachment shall be communicated to the President of the Republic in order that he may execute it and order commencement of suit against the minister if he has been found at fault; and

(3) Others that the laws may provide.

Third Section

Of the Chamber of Senators

Art. 154. In order to form the Chamber of Senators, there shall be elected in each state and in the federal district, by universal, direct, and

¹Thirty-five thousand, not counting uncivilized Indians, under Article 56 of 1936 Constitution.

secret ballot, and by the majority that the law may provide, two principal senators and two alternates.¹

On regulating the principle of proportional representation of minorities, the law shall establish the manner of electing additional senators, on the basis of a national quotient; but in no case shall there be granted by this system more than two senators to one political party or group.

Art. 155. Venezuelans by birth, who, in addition to the conditions provided in Article 82 of this Constitution, are more than thirty years of age and who are not included in the eventualities provided in Article 142 of the same, may be elected senators.

Art. 156. The exclusive duties of the Chamber of Senators are:

- (1) To accord outstanding Venezuelans, or foreigners who may have rendered valuable services to the Republic, the honors of the national pantheon, upon termination of twenty-five years after their death;
- (2) To authorize the promotion of military and aviation officers from the rank of colonel and of naval officers from captain of ship, both inclusive;
- (3) To authorize employees of the Nation, the states, or municipalities to accept office, honors, and rewards from foreign governments, without which they shall not accept them; and
- (4) Others that the laws may provide.

Fourth Section

Provisions Common to Both Chambers

Art. 157. The legislative chambers shall assemble in the capital of the Republic the nineteenth of April each year, or the nearest possible day thereafter, without the necessity of being previously called.

The ordinary sessions of the legislative chambers shall last ninety days, but shall be prolonged up to ninety days more on favorable vote of two-thirds part of the Congress, on initiative of either of the chambers or the national executive power.

During the period to which this Article refers, every day and hour shall be for work and as many sessions as may be held therein shall be deemed regular sessions.

Art. 158. The legislative chambers shall also meet in extraordinary sessions when they are called thereto by the permanent commission on its own initiative or on request of the national executive, or by a fourth part of the members of Congress. There shall only be considered in said sessions the matters referred to in the order of convocation, except where, on legislating with respect to same, it may be necessary to amend existing legislation on related matters. In the same manner the chambers in extraordinary sessions shall be able to act on emergency matters and on those contained in sections 8 and 9 of Article 162 of this Constitution.

Art. 159. The chambers shall be installed with at least two-thirds part of their members and in default of this number, those attending, organized as a preparatory commission, shall order the measures that may be necessary for the attendance of the absentees.

After the opening session, the chambers shall be able to meet with attendance of the absolute majority of their respective members.

Art. 160. The chambers shall both function in the same city, their sessions shall be installed and closed on the same day and at the same hours, and neither shall be able to suspend its sessions prior to the time set, or make a change of residence, without the consent of the other. In

¹ Under Article 60 of 1936 Constitution, election is by State legislatures.

case of disagreement, they shall assemble in Congress and whatever Congress decides shall be done.

The sessions shall be public, but they may be secret when the respective chambers agree to it.

Art. 161. The common duties of both chambers are:

- (1) To adopt their internal regulations and rules of debate and to order the correction of anyone who may infringe them;
- (2) To establish and regulate the police service in their meeting places;
- (3) To remove obstacles which impede the lawful exercise of their duties;
- (4) To order the execution of their respective resolutions;
- (5) To qualify their members and hear their resignations;
- (6) To appoint investigation commissions, which shall have the right to demand from any national, state, or municipal authority the information and documents which they may require in carrying out their duties;
- (7) To appear before the ministers of State and to issue summons to them on matters within their jurisdiction; and
- (8) Others that the law may provide.

Fifth Section

Of the Common Functions of Both Chambers as Co-Legislative Bodies

Art. 162. The legislative chambers, as co-legislative bodies, have the following duties:

- (1) To approve or reject international treaties, contracts, or agreements which are subject to this requirement under Article 105 of this Constitution;
- (2) To decree a state of emergency, approve measures necessary for the national defense, and authorize those that are required for compliance with the obligations of the Republic in international society in accordance with the pacts to which it may be a party;
- (3) To authorize or require the federal executive to negotiate peace and to approve or reject treaties which may be executed concerning it;
- (4) To decree all national taxes;
- (5) To approve the general budget of public income and expenditures, with the modifications it may consider practical;
- (6) To decree government loans and to determine everything relative to the national debt;
- (7) To increase the population basis fixed by this Constitution for the election of deputies, in accordance with the last approved census;
- (8) To authorize the federal executive branch, under penalty of nullity, to alienate private real properties of the Nation and to enter into contracts of national interest, which shall not be valid or become effective until after they may have been approved by the chambers. There are excepted mineral and public land contracts or titles and any others that may be necessary for the normal development of the public administration except in the cases provided by law;
- (9) To authorize temporarily the President of the Republic to exercise determined and necessary extraordinary functions for the purpose of protecting the economic and financial life of the Nation, when public necessity or convenience requires it;
- (10) To approve, in each instance, the national census, when all legal formalities may have been complied with in its procurement, and, if not, to order its revision, in whole or in part;
- (11) To grant pardons;
- (12) To legislate regarding the operation of the national powers;

(13) To legislate regarding the creation, organization, and operation of institutes or official autonomous establishments;

(14) To pass laws of a general character regarding civil pensions, retirement benefits, military retirements, or gratuity funds for widows and children, to be paid by the national treasury;

(15) To pass laws regarding development of social betterment institutions; and

(16) To legislate regarding all matters within the national jurisdiction which may require it.

Sixth Section

Of the Chambers Assembled in Congress

Art. 163. The chambers shall function separately, but they shall assemble in Congress when this Constitution and the laws so determine, or when one of the chambers agrees to it on request of the other. In this latter case, the invited chamber shall have the right to fix the day and hour of the assembly.

Art. 164. The presidents of the Chambers of Senators and Deputies must be Venezuelans by birth and are, as a matter of right, president and vice-president, respectively, of the National Congress.

Art. 165. The duties of the chambers assembled in Congress are:

(1) To elect the officials whose appointment is attributed to them by this Constitution and the laws;

(2) To proclaim as President of the United States of Venezuela the elected candidate in accordance with findings made by the competent body and to administer the oath of office;

(3) To take cognizance of the resignation of the President of the Republic or the person who exercises his functions;

(4) To take cognizance of the annual message of the President of the Republic;

(5) To examine and approve or reject the reports and accounts of the ministers of state and of any other body or official when, in accordance with this Constitution or the laws, the chambers must be advised directly of the matter to which it refers;

(6) To examine and approve or reject additional credits, which are decreed by the President of the Republic in compliance with legal requisites;

(7) To raise to the category of state, the federal territory so soliciting, provided always that it fulfills the conditions set forth in Article 8 of the Constitution;

(8) To count the votes of the legislative assemblies in the cases provided in Article 252 of this Constitution;

(9) To authorize the President of the Republic to leave the national territory;

(10) To prepare the interior regulations and rules of debate of the National Congress; and

(11) Others that this Constitution and the laws may provide.

Seventh Section

Of the Passage of Laws

Art. 166. Laws can be initiated in either of the two chambers by at least three of its respective members, or by the national executive branch, by means of the ministry having jurisdiction over the matter, without prejudice to the provisions of Article 153 and section 4 of Article 184 of this Constitution.

Art. 167. A bill having been presented, it shall be read, and if it is admitted, it shall be passed to the respective permanent commission for its study, consideration, and report, unless the chamber decides to consider it immediately after first discussion. In any case, bills shall receive three readings in each chamber, with intervals of at least two days, and in accordance with the rules which are established for debates.

A bill which has been definitely approved in one of the two chambers shall be sent to the other for discussion, and if this chamber likewise approves it, it shall be returned to the originating chamber with any amendments.

Art. 168. When the initiating chamber accepts the changes approved by the other, it shall become law. If not, the chambers shall assemble in Congress and shall decide, by majority vote, the action which should be taken with respect to the articles in which there may be disagreement, and those related to them, having the right to agree on a draft different from the one adopted in either of the chambers.

Art. 169. Bills rejected in the sessions of one year shall not be presented again except in those of the following:

Special Paragraph: Bills which may remain pending in the ordinary sessions of the chambers shall continue being discussed in immediately following extraordinary sessions when declared urgent by the National Congress, by means of vote of two-thirds part of its members. Likewise, the chamber where they were being discussed can continue discussion on them in ordinary sessions of the following year, upon agreement to do so by the majority provided in this article.

Art. 170. The following clause shall always precede the body of the laws: "The Congress of the United States of Venezuela Decrees."

Art. 171. The ministers of state shall have the right to take part in the discussion of laws, without the right to vote.

Likewise, the judges of the Supreme Court of Justice have a voice in the discussion of procedural laws and in those relative to the organization of the Judicial Power.

Art. 172. Once approved, the legislative acts shall be drawn in duplicate as they remain written in the discussions, without making any modifications or alterations of the text.

Both copies shall be signed by the president, the vice-president, and the secretaries of Congress and shall bear the date of final approval of the act.

One of the said copies shall be sent to the President of the Republic by the president of Congress in order that he may promulgate the legislative act.

Art. 173. The President of the Republic shall promulgate the legislative acts within ten days following their receipt, but in the same period he can recommend reconsideration by Congress, and request that their approval be reviewed or modified for technical reasons or national expediency, which he shall reduce to writing, directed to the president of the same.

When the President of the Republic requests that approval of a legislative act be reviewed, Congress shall decide on his request in a single discussion and by majority vote, and, in the event that he only recommends changes in the text of the same, the proposed modifications and the articles related thereto shall receive two discussions in each chamber, in

compliance with the procedure established in the previous articles. In either case, the President of the Republic shall comply with the decision of Congress and shall promulgate the legislative act returned by the chambers within the following five days.

Without prejudice to the responsibility which the President of the Republic incurs by his omission, the president of Congress shall order the promulgation of the legislative acts when the President of the Republic does not do so within the periods provided by this clause.

Art. 174. When the ten days provided in the foregoing article expire after the session periods of the chambers are terminated, the President of the Republic shall have the right to solicit the extension to which Article 157 refers in order to exercise the right which is conferred on him in the first of the cited clauses.

Art. 175. The promulgation of the legislative acts shall be by means of their publication, with the corresponding order of execution, in the official gazette of the United States of Venezuela.

In case of apparent discrepancy between the original and the legal print, it shall be published again, as corrected, in the cited official publication.

Art. 176. The law shall go into effect on the date provided therein, and, in the event it lacks such provision, from the date of its publication in the official gazette of the United States of Venezuela.

Art. 177. The laws can only be revoked by other laws and can be amended in whole or in part.

Art. 178. The partial amendment of a law having been initiated, the amendment of another or other articles shall not be proposed and considered after the first discussion unless the chamber studying the amendment decides to substitute for the bill another broader one, which shall be considered anew.

Art. 179. Both chambers having approved the partial amendment, the amended law shall be printed in full in a single text, the amended articles being substituted by the newly approved ones and the numbering being corrected in case of addition or omission of articles. The amended law shall revoke the prior law in its entirety, shall bear the date on which the amendment was approved, and shall be signed by the officials who authorized it in accordance with Article 172 of this Constitution and shall stipulate the numbers of the amended articles.

Art. 180. The right of legislating, which belongs to Congress, cannot be delegated.

Art. 181. No legislative provision shall have retroactive effect, except when it imposes a lesser penalty. Laws of procedure shall be applied from the moment they go into effect, even in the proceedings that are in progress; but, in such case, if the trial is criminal, the proofs already offered shall be considered, in so far as they benefit the accused, in accordance with the law in force when they were offered.

Eighth Section

Of the Permanent Commission of the National Congress

Art. 182. During recess of the legislative chambers, the permanent commission of the National Congress, which shall be elected each year within the last fifteen days of the ordinary sessions of the chambers, shall function.

The said commission shall be composed of the president, vice-president, and twenty-one members of the National Congress, who, with their corresponding alternates, shall be elected by it in the manner and under the conditions which the law may establish, to the end of guaranteeing proportional representation of minorities.

The president and vice-president of the National Congress shall exercise the duties of president and vice-president of the permanent commission.

Art. 183. The members of the permanent commission shall cease in their duties when the chambers assemble anew in ordinary sessions, but they can be re-elected.

Art. 184. The duties of the permanent commission of the National Congress are:

- (1) To watch over the observance of the Constitution and respect of citizenship guarantees, without invading the jurisdiction of the judicial power, and to denounce before the President of the Republic irregularities which it may observe, to the end that they may be corrected;

- (2) To report to the legislative chambers concerning irregularities which it may observe in the investment of the accounts of the budget of public expenditures and in the general administration proceeding;

- (3) To review the proposed bills which remain pending in the sessions of the year and to report to the chambers concerning those which in its judgment should continue in discussion in the sessions immediately following;

- (4) To prepare proposed bills and initiate them in either of the chambers on the first opportunity, without prejudice to the provisions of Article 166 of this Constitution;

- (5) To take cognizance of the cases that may affect immunity of the members of Congress, and to report its decisions to the respective chamber within the first ten days of the immediately following sessions;

- (6) To convoke Congress to extraordinary sessions when the urgency of some matter demands it, in compliance with the provisions of Article 158 of this Constitution;

- (7) To collaborate with the national executive in the preparation of the proposed bill for general budget of public income and expenditures and to report on it to the chambers when its discussion is commenced;

- (8) To authorize the national executive to create and endow new public services and to decree additional credits to the budget of public expenses;

- (9) To authorize the President of the Republic to leave the national territory temporarily accompanied by the other members of the executive power whom he may designate;

- (10) To give its opinion when this Constitution or the laws demand it, or on request of the national executive, in matters within its jurisdiction;

- (11) To prescribe its internal regulations and rules of debate; and

- (12) Others that this Constitution and the laws may grant it.

Art. 185. The permanent commission shall be installed with at least two-thirds part of its members within twenty days following termination of the ordinary sessions of the chambers; it shall function with an absolute majority of them, and its decisions shall be taken by vote of the majority of those present, except in cases where this Constitution or the regulations of the said commission may establish a special majority.

The commission shall have at its service the subordinate personnel which it may need to carry out its duties.

Art. 186. The members of the permanent commission shall make a detailed annual report of its activities to the National Congress on the first opportunity which it provides.

CHAPTER IV
OF THE NATIONAL EXECUTIVE POWER

First Section

Of the National Government and Administration

Art. 187. Everything pertaining to the government and the national administration, not granted to another authority by this Constitution, is within the jurisdiction of the President of the Republic in union with the ministers of state.

Art. 188. The national executive power shall exercise its duties in the capital of the Republic, not being able to do so in any other place except in the cases provided by sections 18, subdivision (b), and 31 of Article 198 of this Constitution.

Art. 189. The national executive power shall exercise the administration entrusted to it by legal means and the employees of its dependencies.

Second Section

Of the President of the Republic

Art. 190. The President of the Republic is the representative of the Nation and the chief of the national executive power.

Art. 191. Any Venezuelan by birth who, in addition to the conditions provided in Article 82 of this Constitution, is of secular status and over thirty years of age, can be elected President of the Republic.

Art. 192. The President of the Republic shall be elected by universal, direct, and secret ballot¹ at least three months prior to the nineteenth of April of the year in which each constitutional period commences, and on the date that the National Congress determines in its ordinary sessions of the immediately preceding year.

The citizen who may have obtained the relative majority of votes shall be proclaimed elected.

Art. 193. The President of the Republic shall not be re-elected for the constitutional period immediately following. Nor shall there be elected for the same period anyone who may have occupied the presidency for all of the last year of the preceding constitutional period, nor the relatives of either up to the fourth degree of consanguinity or second of affinity.

Art. 194. On the nineteenth of April of the year in which the new constitutional period commences, the outgoing President shall resign his powers to the President-elect, immediately after he shall have taken the oath of office before the National Congress. If for any reason the President-elect cannot take the oath before the National Congress, he shall do so before the Supreme Court of Justice.

When the President-elect cannot take office on the date indicated in this Article, the outgoing President shall resign his powers before the president of the Supreme Court of Justice, who will then exercise them as acting head of the national executive power until the President-elect can enter upon the exercise of his duties.

Art. 195. In the permanent absence of the President of the Republic, the president of the National Congress will substitute, and, in his absence, the vice-president of the same.

When for any reason none of the said officials can take the said office, the president of the Supreme Court of Justice will do so. In these cases,

¹ Under Article 100 of 1936 Constitution, election is by the Chambers in joint session.

the provisional acting head of the executive power shall immediately request convocation of Congress to extraordinary sessions in order that within thirty days following the convocation, it may order the election of a new President of the Republic in compliance with the provisions of Article 192 of this Constitution, if the absence occurs during the first half of the constitutional period, or elect someone to fill the presidential vacancy, if the absence occurs during the second half of the constitutional period referred to.

When action is taken to call elections, Congress shall elect the citizen who shall be in charge of the executive power until the new President of the Republic takes office.

Art. 196. In temporary absences of the President of the Republic, the minister whom he may designate shall substitute. The latter shall request the permanent commission immediately to convoke Congress to extraordinary sessions if the absence is prolonged more than ninety days. Having assembled, the National Congress shall decide whether to continue the provisional status and shall elect an acting head of the presidency, or, if appropriate, shall elect a new President in compliance with the provisions of the preceding Article.

Art. 197. Neither the President nor anyone acting in his place shall be able to leave the national territory without authorization of Congress or the permanent commission of the same, until the expiration of six months following cessation of his duties.

Third Section

Of the Attributes and Duties of the President of the Republic

Art. 198. The attributes and duties of the President of the Republic are:

(1) To execute and enforce this Constitution and the laws of the Republic;
(2) To represent the Nation in its relations with other nations, to name diplomatic and consular agents of the Republic, and to receive the diplomatic representatives of other states;

(3) To direct, by means of the corresponding ministry, the foreign relations of the Republic and the diplomatic negotiations and to enter into treaties, contracts, and agreements with other nations through the plenipotentiaries whom he may designate in council of ministers;

(4) With the approval of the permanent commission of Congress and the council of ministers, to adhere to multilateral treaties which may interest the Republic, and to execute, in the name of Venezuela, through the plenipotentiaries whom he may designate, those treaties in the discussion of which he has participated;

(5) To submit the international treaties, contracts, and agreements requiring it to the legislative chambers for approval, to ratify, exchange, settle, and put them into effect as circumstances require;

(6) To negotiate, by means of the respective minister, with the approval of the council of ministers, loans which Congress may decree, in full compliance with its provisions;

(7) To adopt measures necessary for the defense of the Republic, the integrity of its territory, and sovereignty in case of international emergency, and to carry out, when he may be required to do so, the obligations which may result from the pacts to which it may be a party, for the common security and defense. In these cases, he shall urgently request convocation of Congress to

extraordinary sessions, if it is not in assembly, and shall advise it of all that has happened and propose measures which he may consider necessary;

(8) To prohibit the entrance of foreigners into the national territory or to expel them in cases provided by the Constitution and the laws of the Republic or permitted by international law;

(9) To promulgate the Constitution and laws. The time in which a law approving an international treaty or contract should be promulgated is within the discretion of the national executive in conformance with international usage and convenience of the Republic;

(10) To regulate the laws without altering their spirit, purpose, or reason, in council of ministers, and to amend or change, wholly or partially, the regulations of the same. In any case, the new regulations shall be published fully with the respective revocation of the former;

(11) With approval of the council of ministers, to request the permanent commission to convoke the National Congress to extraordinary sessions when the gravity of some matter demands it;

(12) To decree, in council of ministers, the creation and endowment of new public services which may be necessary during recess of the legislative chambers, or the modification or revocation of those in existence, on prior authorization of the permanent commission of Congress;

(13) To decree, in council of ministers and on prior authorization of the National Congress or the permanent commission of the same, additional credits to the budget of public expenditures when it may be necessary due to insufficiency of funds provided in the respective chapter of the law of general budget and public income and expenditures, or due to failure to have foreseen the expenditure, and provided always that there are funds in the national treasury with which to cover the additional credit without prejudice to the ordinary expenses, which shall have preference over extraordinary ones. The minister of finance shall accompany the request for authority with an explanation of how the said credit is to be invested;

(14) To execute, by means of the respective minister or ministers, and with approval of the council of ministers, the contracts of national interest permitted by the Constitution and the laws, and to submit them to the consideration of the National Congress, or the permanent commission of the same in emergency cases during recess of the legislative chambers, except as provided in section 8 of Article 162 of this Constitution. In any case, the National Congress shall be advised of such contracts in its next ordinary sessions;

(15) To fix the number of the armed forces of the Republic and to exercise supreme hierarchical authority over them, in compliance with Article 102 of this Constitution;

(16) To direct military operations in case of international emergency or to designate the person who should represent the Republic in command of the combined forces when they may have to co-operate with other nations;

(17) To offer his services for the purpose of putting an end to an armed conflict between two or more states of the Republic or to utilize public force when his peaceful intervention is ineffective;

(18) To decree restriction or suspension of guarantees in the cases provided for in Article 76 of this Constitution, and in case of disturbance of the internal peace of the Republic or armed international conflict, he shall, in addition, for their duration, have power:

(a) To request and authorize necessary aid to the states for the defense of the Nation or its institutions;

(b) To fix the place where all or part of the powers of the Republic may have to be moved temporarily, when urgent necessity for doing so exists;

(c) To order trial of the Venezuelans and foreigners who, in case of international emergency, may be hostile to the interests of Venezuela;

(d) To reorganize the states which may have been overthrown by rebelling forces or whose governments may participate in the rebellion;

(e) To order that the national merchant vessels be armed for their defense in case of necessity;

(f) To incorporate into the national navy the national merchant vessels or foreign ones which may be in ports of the Republic and which may be necessary for defense, and to provide personnel, distinctive markings, and required military equipment. In those cases, there shall be provided the means of indemnifying the losses which the owners may suffer;

(g) To authorize any other measures of a military nature permitted by international law;

(19) To appoint and remove the ministers of state;

(20) To administer the federal territories and dependencies, in compliance with their organic laws;

(21) To exercise, according to law, the highest civil and political authority of the federal district, by means of a governor;

(22) To appoint and remove the governor of the federal district, and, by means of the minister having jurisdiction, in compliance with the statutes on administrative careers, the other national employees whose designation is not granted to another official;

(23) To administer, by means of the respective minister, the public income of the Nation, in accordance with this Constitution and the laws;

(24) To cause titles to gratuitous adjudication, sale or lease of public lands, and the titles to mining concessions to be issued by the respective minister, in accordance with the laws;

(25) To cause navigation permits to national vessels to be issued by the appropriate minister, as provided by law;

(26) To cause letters of naturalization to be issued by the respective minister, in accordance with the law;

(27) To decree, in council of ministers, the measures necessary to carry out the census of the Republic at such time as the law or its regulations may indicate, and thereafter to submit it to the approval of Congress;

(28) To order, by means of the competent minister and with the approval of the council of ministers, that the national public ministry make complaints against the employees who may give reason therefor;

(29) To grant pardons;

(30) To exercise, on the terms which Congress may prescribe, the extraordinary duties to which section 9 of Article 162 of this Constitution refers;

(31) To declare himself, with all or some of the ministers of state, on official visit to any state or states of the Republic or federal territory which the declaration may indicate. During official visit the seat of the national executive power shall be the place where the President may be. In the same decree in which the visit is ordered, everything pertaining to current administrative functions of office in Caracas shall be regulated;

(32) To appoint the minister of state who shall replace him in case of temporary absence;

(33) Others which this Constitution and the laws accord him.

Art. 199. The President of the Republic shall, personally or by means of one of the ministers, present to the National Congress each year, within the first ten days of its ordinary sessions, a concise message containing the general lines of political administrative conduct which have been carried out during the year, and shall point out the projects of his government in the said plan of administration.

In the last year of the presidential period, the message shall be presented on the date of installation of the legislative chambers.

Art. 200. The President of the Republic is absolutely responsible, along with the ministers of state, for the acts of his administration, in addition to the personal responsibility which attaches to him for treason to the country and for common violations of the law.

Fourth Section

Of the Ministers of State

Art. 201. The President of the Republic shall carry out his duties by means of the ministers provided by law, which shall determine their functions and duties, and shall organize their offices.

Art. 202. In order to be a minister of state it is required that one be Venezuelan by birth, over thirty years of age, of secular status, and possessed of his civil and political rights.

Art. 203. The ministers are the legal agents of the President of the Republic, in view of which he shall supervise their activity, in accordance with their respective jurisdictions, and they shall execute his resolutions within the limits of their authority.

Special Paragraph: A written order of the President of the Republic does not excuse the ministers from personal responsibility which they may incur in exceeding their authority.

Art. 204. In addition to the duties which attach to them as agents of the President of the Republic, the ministers have those which they derive from their positions as members of the council of ministers, in which they collaborate with him in the functions of government and the national administration. The law shall provide the norms relative to the organization and operation of the council of ministers.

Art. 205. The council of ministers shall meet when this Constitution or the laws require it, or when the President of the Republic convokes it, for the purpose of taking cognizance of some matter which, in his judgment, should be submitted to their consideration.

Art. 206. With respect to the resolutions adopted in council of ministers, the President of the Republic and the ministers who may not have recorded their adverse or negative vote in the manner which the law on the matter may establish, shall be responsible.

Art. 207. Each minister shall submit an annual report to Congress, within the first ten days of its sessions, in a rationalized and documented memorandum, of that done by his office and of that which he may consider advisable to be done in his respective branch. He shall likewise present an account of the funds which he may have managed.

In the last year of the Constitutional period, the ministers shall present the memoranda and accounts on the day fixed for the installation of the legislative chambers, and if they shall not yet have been installed, they shall present them to the permanent commission of Congress in order that it may refer them to the body when it assembles.

Art. 208. The minister of finance, within the first five days of the installation of the legislative chambers, shall present to the deputies, along with the corresponding explanation of reasons and the specification of the global accounts, not including those whose publication may prejudice the security of the State and the national interest, the project of law of the

general budget of public income and expenditures, which he shall explain fully in consultation with the ministers of state and with the co-operation of the permanent commission of Congress.

The chambers are free to modify the said project; but they shall not accord increases to its accounts except by vote of two-thirds part of their members.

Along with the project, the federal executive shall likewise present, by means of the minister of finance, the administrative plan in accordance with which the investments provided for shall be carried out.

Art. 209. The ministers have the right of voice in the chambers and in the permanent commission of Congress, and they shall be required to attend them when they may be called to report, or to answer summons which may be issued to them.

Art. 210. The ministers are penally and civilly responsible for the illegal acts they may commit.

CHAPTER V

OF THE JUDICIAL POWER

First Section

General Provisions

Art. 211. The judicial power of the Republic is independent of the other public powers and is made up of a Supreme Court of Justice and other courts which the laws may establish.

Art. 212. The law shall determine the organization, jurisdiction, and duties of the courts which may be necessary for the administration of justice, as well also as the manner of designating their members and that relating to the establishment of a judicial career, in so far as it is not covered in this Constitution.

Art. 213. The law may establish a supreme council of judges with representatives of the legislative, executive, and judicial powers, to the end of insuring the independence, efficiency, and discipline of the judicial power and the effectiveness of the benefits of the administrative career in the same. In the same manner, it shall determine the number and manner of election of the said representatives, and the authority which, within the limits of its jurisdiction, the cited agency requires.

Art. 214. The authorities of the Republic are under the obligation of furnishing the judicial officials the assistance which they may require for the purpose of carrying out their decisions.

Art. 215. The officials of the judicial power are responsible in accordance with the law.

Art. 216. The judges shall not be removed during the respective constitutional period, except by means of a final judicial decision, and in the cases provided by the law.

Art. 217. Judicial positions are a bar to the practice of law and are incompatible with any other remunerated public post, except academic, professorial offices, memberships on technical commissions, or drafters of laws or similar instruments, memberships on international courts and representation of the Nation in conventions or international meetings of a technical character.

Second Section

Of the Supreme Court of Justice

Art. 218. The Supreme Court of Justice shall be composed of ten judges, lawyers of the Republic who shall meet the same conditions required for being President of the Republic.

Special Paragraph: The National Congress, on proposal of the Supreme Court of Justice, can, by special law, increase the number of judges.

Art. 219. Within the first fifteen days of the ordinary sessions of the year in which each constitutional period commences, the National Congress shall, separately and by absolute majority of votes, elect the judges of the Supreme Court of Justice. In the same session and in the same manner it shall elect ten alternates, who, in the order of their election, shall fill the permanent absences of the principals.

The temporary absences and those resulting from special circumstances in any matter shall be filled by the said court in accordance with the law. When a permanent absence of one or several alternates occurs, Congress shall elect those that may be necessary, who shall occupy the vacant posts.

Art. 220. The Supreme Court of Justice shall be divided into autonomous courts of justice, which shall have exclusive jurisdiction over the matters of their respective competence and they shall function with the number of judges that the law may determine.

The Supreme Court of Justice shall have the following duties:

- (1) To take cognizance of accusations against the President of the Republic or the person who is acting in his place, the ministers of state, the attorney general of the Nation, the solicitor general of the Nation, the comptroller general of the Nation, the governors, its own members and other high officials that the laws may indicate, in the cases in which said officials may incur criminal responsibility;

- (2) To take cognizance of criminal cases which may be brought against diplomatic agents, for acts done in the public service. Responsibility for other acts shall be made effective before the courts and by means of ordinary judicial proceedings;

- (3) To take cognizance of the recourse of cassation and other matters whose decision the law attributes to it.

On deciding that there are grounds for recourse to cassation for violation of law, the court shall decide in full concerning the appealed sentence;

- (4) To take cognizance on appeal of cases of seizure;

- (5) To settle the controversies of whatever nature that may arise, reciprocally, between the national power, the states, and municipalities, or between their legal agencies, in the cases in which such authority is not attributed by law to some other body.

- (6) To settle jurisdictional conflicts which may arise between two or more courts of the Republic, provided always that the law does not indicate some other authority;

- (7) To declare the nullity of national laws, state laws, or municipal ordinances, when they violate the Constitution of the Republic. The nullity shall be limited to the paragraph, article, or articles in which the violation appears, except where they are of such importance, by reason of their relation to the remainder, that, in the judgment of the court, their nullity causes the nullity of the entire law;

- (8) To decide which law shall prevail when the national laws are found in conflict, either among themselves or with those of the states, and to decide at the same time which article or articles of a law must prevail when a conflict exists between its provisions;

(9) To declare the nullity of the acts of the legislative chambers, of the legislative assemblies, of the municipal councils, of the national executive power, or of the states, and of the governors of the federal district or of the federal territories, which violate this Constitution. The court shall likewise declare the nullity of those acts to which reference is made in Articles 84 and 87 of this Constitution when no other agency is authorized by law to do so.

The action to nullify an administrative act for illegality or abuse of power is barred after thirteen months, provided always that no constitutional provision has been violated by the said act. The illegality of the said act can always be opposed as an exception.

If the act challenged for nullity is a ministerial resolution, the court shall not decide except in accordance with the procedure established in the following paragraph;

(10) To take cognizance, in a contested administrative proceeding, of all the questions which may arise between the Nation and others, as a result or because of contracts executed by the national executive on mining concessions or on public lands, except those points which by reason of the law existing at the time of execution of the contract, of the issuance of the concession, or of the refusal to grant it, are subject to the decision of the national executive without judicial recourse;

(11) To order the execution of foreign sentences, when in accordance with law;

(12) To take cognizance in contested administrative proceedings of suits filed against the Nation for losses and damages and of all other suits that may be brought against it for sums of money;

(13) Others which this Constitution and the laws may provide in matters of national jurisdiction.

Art. 221. In the cases provided in the first section of the preceding Article, the court shall make a summary finding as to whether or not there are grounds for filing suit, in view of the documents introduced and those which may have been officially executed. If it should declare the former, the accused official shall be suspended from carrying on his position while the trial lasts. If it should declare the latter, the proceedings shall terminate. When the violation is of an ordinary nature, the proceedings shall be passed to the ordinary competent court, and when it is of a political nature, the court shall continue to take jurisdiction until final sentence.

Art. 222. The Supreme Court of Justice shall present a memorandum each year to the National Congress covering its work and shall point out the reforms which, in its judgment, should be introduced for legislation.

CHAPTER VI

Of the Public Ministry

Art. 223. The public ministry shall be in charge of the attorney general of the Nation and the auxiliary agents which the law may provide.

Art. 224. The attorney general of the Nation shall be Venezuelan by birth, of secular status, over thirty years of age, a lawyer of the Republic, and shall possess his civil and political rights.

The attorney general of the Nation shall be elected by the National Congress in the first thirty days of sessions of the year in which the respective constitutional period commences, and shall continue in his duties for the entire period. For the purpose of substitution during his temporary or permanent absences, the Congress, in the same act in which it makes its appointment, shall likewise elect five numbered alternates who

fulfill the same conditions required for the attorney general, and they shall be called by the national executive in the order of their election to occupy the vacant post.

Art. 225. It is the responsibility of the public ministry to see that the courts of the Republic justly apply the laws in criminal proceedings and in all those in which the national treasury, public order, or good customs are interested and in general for the good progress of the administration of justice.

Art. 226. The duties of the attorney general of the Nation are:

(1) To propose, either personally or by means of his subordinate officials, on his own motion or at the request of the national executive, complaints against national employees who may give reason for being tried;

(2) To represent the public ministry before the Supreme Court of Justice in the cases to which reference is made in sections 1 and 2 of Article 220 of this Constitution;

(3) Others that this Constitution and the laws may provide.

Art. 227. The attorney general of the Nation and the person who may be acting in his place are responsible in accordance with the law.

Chapter VII

Of the Solicitor General of the Nation

Art. 228. The solicitor general of the Nation shall be Venezuelan by birth, of secular status, over thirty years of age, a lawyer of the Republic, and shall possess his civil and political rights.

The solicitor general of the Nation shall be elected by the National Congress in the first thirty days of its sessions of the year in which the respective constitutional period commences and shall continue in his duties for the entire period. For the purpose of substituting him during his temporary or permanent absences, the Congress, in the same act in which it makes its appointment, shall likewise elect five numbered alternates who fulfill the same conditions required for the solicitor general, and they shall be called by the national executive in the order of their election to occupy the vacant post.

Art. 229. The duties of the solicitor general of the Nation are:

(1) To represent and support either personally or by means of his subordinate officials the rights of the Nation in all cases to which it may be a party in accordance with the laws and the instructions which the national executive may issue to him;

(2) To furnish juridical reports which may be requested of him by the President of the Republic, the ministers of state, the legislative chambers and the Supreme Court of Justice;

(3) Others that this Constitution and the laws may provide.

Art. 230. The solicitor general of the Nation and the person who may be acting in his place are responsible in the same manner as the ministers of state.

CHAPTER VIII

OF THE NATIONAL PUBLIC TREASURY

First Section

General Provisions

Art. 231. The national treasury includes the properties, income, and debts which form the assets and liabilities of the Nation and all other

properties and income the administration of which attaches to the national power.

The supreme direction and administration of the national treasury are within the jurisdiction of the federal executive power which shall exercise it by means of its legal agencies in accordance with this Constitution and the laws.

Art. 232. The national finance system shall be organized and shall function on the basis of justice and equality of taxation to the end of providing distribution of taxation and progressive contributions proportionate to the economic capacity of the contributor, improvement of the social level and purchasing power of the consumer, and the protection and development of national production.

Exoneration shall be granted only in the cases where the law permits it.

Art. 233. No tax or contribution shall be assessed which is not authorized by law, nor shall any expenditure be made from the national treasury for which a sum has not been provided in the law of general budget of public income and expenditures, unless, prior to making the expenditure, an additional credit is allowed by means of executive decree. Those who violate this provision shall be civilly responsible for the sums the payment of which has been effected or ordered.

Art. 234. No tax payable in personal services shall be established nor shall there be taxed the natural products of agriculture or breeding prior to being offered for consumption.

Art. 235. No tax shall be assessed on navigation of rivers or other navigable waters which have not required special projects for it.

Art. 236. No tax or contribution shall go into effect or be increased or decreased until after termination of the period which shall be provided in each case.

This provision does not limit the extraordinary powers which are granted to the executive power in the cases established by this Constitution.

Art. 237. Except for the expenses which are included in the law of the budget, Congress shall not order any others either by special laws or agreements.

Art. 238. In the general budget of public income and expenditures of the Nation there shall be included annually an item equivalent to at least twenty-five per cent of the total revenue from income, taking as a basis for each economic year the total of the said revenue in the civil year immediately preceding; the said item shall be distributed among the states, federal district, and federal territories in the following manner: thirty per cent of the said percentage, in equal parts and the seventy per cent remaining, in proportion to the population of each one of the cited entities. Of the part which belongs to each state in the constitutional allowance, at least twenty per cent shall be earmarked for distribution among the municipal districts in the same manner established in this Article for the distribution of the allowance between the federal entities.

The law shall determine whatever may be necessary for the co-ordination of the budgets of the states, the federal district, and the federal territories with the budget of the Nation with respect to matters which, by their nature, must conform to a uniform plan; and, at the same time, shall determine how the national government shall orient and control the

investment of the allowance by the regional governments and the municipalities, there being excepted, however, the provisions of Article 247 of this Constitution.

Art. 239. It shall be provided by special laws that certain official, scientific, professional, financial, or industrial institutes may have juridical personality and their own funds distinctly and independently from the national treasury.

During recess of the legislative chambers, the mentioned institutes shall be created by means of organic decrees on prior authorization of the permanent commission of the National Congress. The said institutes shall annually submit their respective budgets and a report of their expenditures in the immediately preceding year to the National Congress, or to the authority designated in the act of their creation.

Art. 240. The national executive shall not contract any loan except by virtue of express authorization which the National Congress may grant in order to meet urgent necessities and projects of public necessity.

Second Section

Of the Comptroller General of the Nation

Art. 241. The auditing of all the income and expenditures of the national treasury, as well as the centralization, examination, and control of all of the financial accounts and operations of national properties, including money, valuables, materials, and effects acquired or administered by national offices or by autonomous institutes, shall be the responsibility of an autonomous agency known as "office of the comptroller general of the Nation," without prejudice to the auditing which the executive power may carry out directly through its subordinate agencies.

Art. 242. It is within the jurisdiction of the office of the comptroller general of the Nation, in addition to the duties which the law designates to it, to denounce before the proper party any irregularities which it may observe in the management of public funds. To this end the comptroller shall either personally, or by means of his employees, make any type of investigation in the departments and offices subject to his auditing, the officials or employees in charge of them being required to make available to them, on their summons, the data or information necessary.

Art. 243. The office of the comptroller shall be under the supervision of an official who shall be called comptroller general of the Nation and shall be organized and operated in accordance with the law.

Art. 244. In the year in which each constitutional period commences and within the first thirty days following its installation, the National Congress shall elect the comptroller general of the Nation and an assistant comptroller, who shall act as assistant and substitute during permanent and temporary absences. In the same act, the Congress shall elect three alternates who shall fill the absences of the assistant comptroller in accordance with the law.

Art. 245. The comptroller and the assistant comptroller shall fulfill the same conditions required for being President of the Republic; shall continue in their duties during all of the constitutional period, and shall be civilly and criminally responsible for the illegal acts which they may commit.

Art. 246. In the examination and approval or disapproval of the ministerial and autonomous institute accounts, the office of the comp-

troller general of the Nation shall be the assistant of the National Congress and shall annually present to it an itemized report of the expenditures corresponding to the year of the account and others which may be expressly demanded of it.

Art. 247. The auditing and control which correspond to the comptroller general of the Nation may be made to extend to the state or municipal administrations by means of special law.

TITLE IX

OF CONSTITUTIONAL AMENDMENT

Art. 248. This Constitution shall be amended in whole or in part on the initiative of the legislative assemblies or the National Congress in either of its chambers.

Art. 249. When the proposal is made in the legislative assemblies, the National Congress shall order it in accordance with law if two-thirds part of it, assembled in ordinary sessions, have considered the amendment necessary or expedient by means of agreements approved in each assembly by the absolute majority of all of their members. Having ordered the proposal to be in accordance with the law, the chambers shall discuss the amendment by the system established in this Constitution for the discussion of ordinary laws. Having agreed to amendments or additions, the president of the Congress shall submit them to the legislative assemblies for their ratification which shall be done by the same procedure provided for the proposal.

Art. 250. When the proposal is made in either of the chambers of Congress, it must be proposed by a one-fourth part of all of its members, following the system established in this Constitution for the discussion of ordinary laws. Having agreed to amendments or additions, the president of the Congress shall submit them to the legislative assemblies in their ordinary sessions of the following year for their ratification, which shall be considered valid when it has been approved by two-thirds majority of them in their ordinary sessions and by means of vote of the absolute majority of all of the members of each assembly.

Art. 251. Neither amendments nor additions shall be made except on the points to which the above mentioned majority of the legislative assemblies agree.

Art. 252. In any case, the final vote of the legislative assemblies shall be returned to Congress for its final study, after which, if it appears that the amendments or reforms have been legally ratified by the legislative chambers, the Constitution thus amended or reformed shall go into effect the same day of its publication in the Official Gazette of the United States of Venezuela.

TRANSITORY PROVISIONS

FIRST: The mandate of the National Assembly as the constitutional power shall continue in force until it declares itself in recess.

When the Assembly decides to declare itself in recess, then it shall designate from its body a permanent commission, composed of a president, two vice-presidents and twenty-two additional members, elected by secret ballot, from the lists which the different political groups may

present, in a manner which will permit proportional representation of them in the said commission. In the same manner, an equal number of alternates shall be designated for the principals.

The permanent commission shall have the same duties as the permanent commission of the National Congress in so far as they may be applicable and shall cease in its functions upon the installation of the legislative chambers which may be elected in accordance with this Constitution.

Until the said chambers shall have been installed, the Assembly shall meet anew, with functions of the legislative power, when it is convoked for this purpose by the agency and within the provisions to which Article 158 of this Constitution refers.

SECOND: The President of the Republic, the members of the National Congress and those of the legislative assemblies shall be elected simultaneously within ninety days following the promulgation of the electoral statute which this Assembly must approve and on the date the supreme electoral agency shall fix.

The legislative chambers shall be installed in ordinary sessions thirty days after the general proclamation of the candidates elected in order to comply with the provision of section 2 of Article 165 of this Constitution and to consider the matters which may have been submitted to them in accordance with the provisions of Article 158 of the same.

The legislative assemblies shall be installed the first of January, 1948, or on the nearest possible date thereafter, to prepare the constitution and fundamental laws of the states, without prejudice to the provisions of Article 128 of this Constitution.

THIRD: The municipal councils of the federal district and the federal territories shall be elected and shall be installed at the same time provided for the legislative assemblies.

FOURTH: Within ten days following the installation of the legislative assemblies of the states and of the municipal councils of the federal district and federal territories, the respective governors shall present to them for their examination and decision a detailed memorandum of the acts of the government and an itemized account of the administration corresponding to the period between October 18, 1945, and December 15, 1947.

FIFTH: To make up the legislative assemblies, the electors of each state shall elect, at this time, twelve principal deputies and their alternates when their population does not exceed one hundred thousand inhabitants; and when the population is greater, they shall elect one deputy more for each excess of twenty-five thousand inhabitants or fraction thereof in excess of ten thousand.

If on the date of election of the municipal councils the respective organic laws have not yet been promulgated, in each district of the states of the Republic there shall be elected, in compliance with the Third Transitory Provision, five principal councillors and their respective alternates, when the population does not exceed thirty thousand inhabitants; and when their population is greater, they shall elect one councillor more for each excess of fifteen thousand inhabitants or fraction thereof in excess of ten thousand. This provision, in so far as it may be applicable, shall be extended to the municipal power of the federal territories.

Sole Paragraph: Until such time as the law organizes the municipal power in the federal district, the municipal council shall be composed of

twenty-two councillors and their alternates elected in accordance with the electoral law.

SIXTH: The legislative assemblies and the municipal councillors to which reference is made in the preceding provision shall continue in their duties until June 1, 1950.

SEVENTH: A national plebiscite, which shall be taken within two years from the date of promulgation of this Constitution and at the time which the National Congress may fix, shall decide whether the governors of the states shall be selected and removed freely by the President of the Republic in council of ministers, or whether they shall be elected by universal, direct, and secret ballot.

The procedure decided upon by this consultation shall be considered incorporated as a title of this Constitution.

Until such time as this plebiscite is held, the governors shall be selected and removed freely by the President of the Republic in council of ministers, without prejudice to the provisions of section 2 of Article 131 of this Constitution.

EIGHTH: The mandate of the officials of the national public power elected in compliance with this Constitution and the electoral statute for the period immediately following, shall begin to be in force from the moment in which they take the oath of office, but they shall necessarily terminate the nineteenth of April, 1952.

NINTH: By special decree, the Assembly shall decide on the location of the executive power which must act until the date on which the President of the Republic who may be elected in accordance with this Constitution takes office.

TENTH: The functions of the attorney general of the Nation shall be exercised by the solicitor general of the Nation until such time as the laws which set forth their respective functions are promulgated.

ELEVENTH: Until such time as the Congress, in ordinary sessions, provides for the office of solicitor general of the Nation in accordance with the sole paragraph of Article 228 of this Constitution, the said office shall be occupied by the citizen whom the Assembly may elect prior to terminating its sessions. In the same act the respective alternates shall be designated.

TWELFTH: Before declaring itself in recess, the Assembly shall elect in the manner provided in Article 219 of this Constitution the Supreme Court of Justice of the Republic, which shall act until the next Congress in its ordinary sessions carries out the final election for the remainder of the constitutional period.

Until such time as the legislation to which Article 212 hereof refers is promulgated, the judicial power of the Republic shall continue functioning in accordance with the laws which organize its duties; but the election of the judges shall be regulated by the following norms:

(a) The National Constitutional Assembly, or in lieu thereof the permanent commission, shall draw up the respective lists of candidates, in triple the number of the officials to be elected, for members of the Supreme Court and courts of superior judges of the states and the federal district and for judges of first instance of these entities and the federal territories. Within five days following, the federal executive shall appoint the officials of the respective tribunals in council of ministers. The remaining candidates shall remain as alternates in the order of their election.

In like manner, the public defenders of prisoners, the auditors of the public ministry and the members of the special courts shall be elected.

(b) Within five days following their installation, the supreme courts of the states and the federal district and the judges of first instance of the federal territories shall draw up corresponding triads for judges of instruction of district or department and of municipality, parish or department. Within five days following their receipt, the regional executives shall designate the respective judges from such lists. The other candidates shall remain as alternates in the order of their election. In the preceding cases, the actual territorial jurisdictional organization shall be complied with.

THIRTEENTH: In the election of the provisional comptroller general, and assistant comptroller and their respective alternates, the procedure followed in Provision Eleventh for filling the office of provisional solicitor shall be adopted.

FOURTEENTH: The norms for distribution of the constitutional allowance established in Article 238 of this Constitution shall be considered in force from the first of July of this year in accordance with the budget which this Assembly shall prepare.

From the date referred to, the office of the federal power shall assume the expenditure relative to the administration of justice and the public ministry.

FIFTEENTH: Until such time as the law establishes the general jurisdiction, courts of first instance in criminal matters shall have attributed to them jurisdiction of habeas corpus proceedings.

Within twenty-four hours following receipt of complaints, the said courts shall request of the officials under whose custody the detained are being held, the reasons for the deprivation of liberty and in the following act, having in mind the results of the inquiry, shall order:

- (1) Submission to trial, if there is reason therefor;
- (2) That the corresponding administrative resolution be dictated if the detention is due to cause of this kind, or
- (3) The immediate liberty of the detained if he does not fall within the preceding cases, without prejudice to the proceeding for which there is cause if the executive officials have incurred criminal responsibility for abuse of their duties.

SIXTEENTH: The sealed paper tax shall continue being collected in the states until such time as the fiscal stamp tax law is modified in accordance with this Constitution.

SEVENTEENTH: Those persons who have Venezuelan nationality together with another shall be required to elect within a period of five years that which they may finally prefer. After the said period shall have elapsed, without their having complied with this requirement, notwithstanding the notification which will be given them in accordance with the terms which the law may prescribe, it shall be presumed that they prefer Venezuelan nationality.

As to the minors, the period stipulated shall commence to run when they reach majority according to Venezuelan law.

EIGHTEENTH: During the recess of the National Constitutional Assembly, the provisions of Articles 143 to 146 of this Constitution shall be applicable to its members, but, except for the members of the permanent commission, they shall not earn daily allowances.

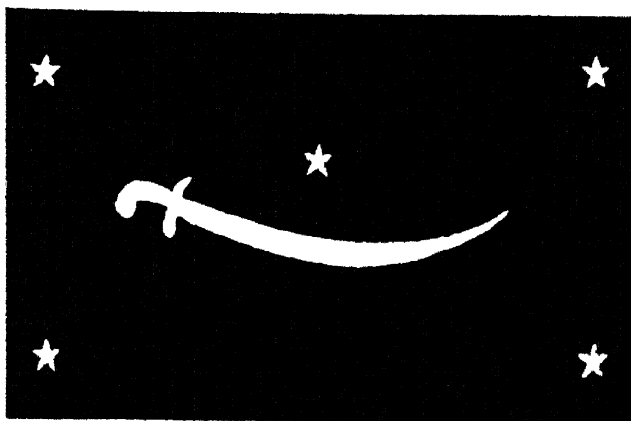
NINETEENTH: Until such time as it is modified or implicitly revoked by this Constitution, the existing judicial order shall continue in force.

FINAL DISPOSITION

Art. 253. The Constitution prescribed the sixteenth of July, 1936, as amended the twenty-third of April, 1945 and ordered to be complied with by the executive power and published in the Official Gazette of the United States of Venezuela on the twentieth of July, 1936, and the fifth of May, 1945, respectively, is hereby revoked.

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YEMEN

SUMMARY

INTERNATIONAL STATUS

Yemen is a member of the United Nations, admitted September 30, 1947. It is a party to the Statute of the International Court of Justice but is not, as of the time of our going to press subject to the compulsory jurisdiction of the Court.¹ It is a member of the Arab League, the Universal Postal Union and the International Telecommunications Union. It was not a member of the League of Nations nor a party to the Statute of the Permanent Court of International Justice of 1921.

¹ See Yearbook of the Court 1947-48, p. 39; also Documents & State Papers, U. S. Dept. of State, June 1948, Vol. 1, No. 3, p. 192.

By the terms of the Armistice of Mudros, of October 21, 1918, the Turkish garrisons of Yemen were obliged to surrender to the Allied forces. The Turks having evacuated Yemen, the Imam Yahya, a member of the family which had held the primacy among the sheiks of the area since the year 860 A. D., established himself at Sana in November, 1918. In a treaty of friendship and commerce concluded with Italy in 1926 he was designated by the title of King. He concluded treaties of friendship with the USSR in 1928 and 1939, with Iraq in 1931, with the Netherlands in 1933, with Great Britain and Saudi Arabia in 1934, with Ethiopia in 1935, with France and Belgium in 1936, with Czechoslovakia in 1938, with Egypt in 1945, and with the United States in 1946.¹

Yemen was neutral in World War II.

FORM OF GOVERNMENT

According to a recent publication by a member of the Yemen Delegation to the United Nations,² it is "a democratic Kingdom based on the principles of the Mohammedan religion, which recognizes the divine commandments, and on the Koran". The form of government is stated to be "selective and elective", the sovereign being elected and his consultative assembly being selected. All major decisions of the Ministers and heads of governmental departments are subject to approval by the King, to whom they are submitted by a Prime Minister.

There are at present ministries of foreign affairs, national education, health, highways, national economy and *wakfs*, and departments of interior, finance, army and public domain. The prerogatives of the head of the army are stated to be extensive.³

Justice is administered by courts which apply the Sunna (traditions of the Prophet) as well as other traditions and local laws.³

AREA, POPULATION, LANGUAGE

The area of Yemen is approximately 75,000 square miles. The estimated population is between 4,000,000 and 5,000,000. The language is Arabic.

¹ See *Yemen (Chronologie)* in *Revue Egyptienne de Droit International*, Vol. 3, 1947, pp. 110-113.

² *Yemen*, by Adnan Tarcici, 1947.

³ See *Yemen*, by Adnan Tarcici.

STATEMENT REGARDING CONSTITUTION

The editor is advised by authoritative governmental officials that there is no written constitution of Yemen.

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YUGOSLAVIA

SUMMARY

INTERNATIONAL STATUS

Yugoslavia is a member of the United Nations. It signed the Charter at San Francisco on June 26, 1945, and deposited its ratification October 19, 1945. It also signed the United Nations Declaration of January 1, 1942.

It was a member of the League of Nations and signed the Paris Pact of 1928. It signed and ratified the Statute of the Permanent Court of International Justice of 1921 and accepted the optional clause (Article 36). As a member of the United Nations it is automatically a party to the Statute of the International Court of Justice of

1945.¹ It is a member of the Postal Union and numerous other international organizations.²

Yugoslavia, the State of the Southern Slavs, embraces the former independent States of Serbia and Montenegro and the former Austro-Hungarian provinces of Bosnia, Herzegovina, Croatia, Dalmatia and Slovenia. The efforts of the Austro-Hungarian Government to arrest the movement for the unification of the Southern Slavs, under Serbian leadership, were among the factors in the precipitation of war in 1914. The Serb-Croat-Slovene State, or Kingdom of the Serbs, Croats and Slovenes, was proclaimed on December 1, 1918, and was a signatory of the Treaties of Versailles and St. Germain of 1919 and the Treaty of Trianon of 1920.

The signing of the Anti-Comintern Pact by the government of Yugoslavia on March 25, 1941, was followed two days later by the overthrow of the government and the repudiation of the Pact. Yugoslavia was thereupon invaded and overrun by German forces. The King escaped and set up a government in exile in London. A National Liberation Army, under the leadership of Marshal Tito, organized effective resistance to the enemy. A National Committee of Liberation, which performed the functions of a government in Yugoslavia, with Marshal Tito as president or acting premier, ultimately entered into a working arrangement with the King, upon the recommendation of Roosevelt, Churchill and Stalin, at the Yalta Conference of February, 1945. A proclamation of the Federal Peoples Republic of Yugoslavia was made on November 29, 1945.³

FORM OF NATIONAL GOVERNMENT

The Constitution adopted by the Constituent Assembly of Yugoslavia on January 30, 1946, and proclaimed the next day, declares that "the Federal Peoples Republic of Yugoslavia is a federal people's state, republican in form, a community of peoples equal in rights who, on the basis of the right to self-determination, including the right of separation, have expressed their will to live together in a federative state."⁴

The Federal Peoples Republic of Yugoslavia is composed of the peoples republics of Serbia, Croatia, Slovenia, Bosnia-Herzegovina, Macedonia, and Montenegro.⁵ Each of the six component republics has its own independent constitution, reflecting the special characteristics of that republic but "in conformity with the Constitution of the FPRY."⁶

¹ It is not, as of the time of our going to press, subject to the compulsory jurisdiction of that Court. See Yearbook of the Court, 1947-48, p. 39; also Documents & State Papers, U. S. Dept. of State, June 1948, Vol. 1, No. 3, p. 192.

² See Table I.

³ See Michael Boro Petrovich, *The Central Government of Yugoslavia*, in *Political Science Quarterly*, New York, December, 1947, pp. 506-510.

⁴ Const., Art. 1.

⁵ Id., Art. 2.

⁶ Id., Art. 11.

"The State directs the economic life and development of the country in accordance with a general economic plan," and "relies on the cooperation of syndicalist organizations of workmen and employees and other organizations of the working people."¹

SOURCE OF SOVEREIGN POWER

"All authority in the Federal Peoples Republic of Yugoslavia derives from the people and belongs to the people."²

RIGHTS OF THE PEOPLE

Subject to the general control of the State over "the private economic sector," the Constitution guarantees private property and private initiative in economy.³ It also guarantees equality of all citizens before the law, with equal rights regardless of nationality, race and creed;⁴ universal, equal, and direct suffrage by secret ballot;⁵ equal rights of men and women in all fields of state, economic and social-political life, with special protection to the interests of mothers and children;⁶ freedom of conscience and of religion, with separation of Church and State;⁷ freedom of the press, of speech, of association, and of assembly;⁸ inviolability of person and of the dwelling;⁹ privacy of letters and other means of communication except in cases of criminal inquiry, mobilization, or war;¹⁰ the right of asylum for foreigners persecuted on account of their struggle for the principles of democracy or for national liberation, the rights of working people and freedom of scientific and cultural work;¹¹ a decent living and free occupational training for disabled ex-service men;¹² freedom of scientific and artistic work;¹³ freedom of elementary education;¹⁴ and the right of petition.¹⁵ National minorities are accorded "the right to and protection of their own cultural development and the free use of their own language."¹⁶

LEGISLATIVE DEPARTMENT

The exclusive power of legislation in all matters within the authority of the Federal Peoples Republic is vested in the Peoples Assembly,¹⁷ consisting of the Federal Council and the Council of Nationalities.¹⁸ The members of the Assembly are elected for terms of four years.¹⁹ The members of the Federal Council are elected by all citizens of the Federal Republic on the basis of one deputy for every fifty thousand inhabitants.²⁰ Thirty members of the Council of Nationalities are elected by each of the republics, twenty by each of the autonomous provinces, and fifteen by

¹ Const., Art. 15.

⁴ Id., Art. 21.

⁷ Id., Art. 25.

¹⁰ Id., Art. 30.

¹³ Id., Art. 37.

¹⁶ Id., Art. 13.

¹⁹ Id., Art. 56.

² Id., Art. 6.

⁵ Id., Art. 23.

⁸ Id., Art. 27.

¹¹ Id., Art. 31.

¹⁴ Id., Art. 38.

¹⁷ Id., Art. 51.

²⁰ Id., Art. 53.

³ Id., Arts. 15, 18.

⁶ Id., Art. 24.

⁹ Id., Arts. 28, 29.

¹² Id., Art. 35.

¹⁵ Id., Art. 39.

¹⁸ Id., Art. 52.

each of the autonomous regions.¹ The Assembly, at a joint meeting of the two houses, elects a Presidium, consisting of a president, six vice-presidents, and not more than thirty members,² which exercises specified legislative functions on behalf of the Assembly and is subject to recall by the Assembly.³ These functions include executive and judicial ones, as well as legislative ones, such as the appointment of members of the government and ambassadors, the exercise of the right of pardon, and decision as to whether a law of one of the component republics is in conformity with the federal Constitution and the federal laws.⁴ They also include declaration of "general mobilization and state of war in the event of an armed attack against the Federal Peoples Republic of Yugoslavia, or in case of necessity for the immediate fulfillment of international obligations of the Federal Peoples Republic of Yugoslavia toward the international peace organization or toward an allied country."⁵

EXECUTIVE DEPARTMENT

In addition to executive functions performed by the Presidium, "the highest executive and administrative organ of state authority" is the Government, appointed by and responsible to the Assembly or, in intervals between sessions, to the Presidium.⁶ The Government consists of the president, vice-presidents, ministers (with or without portfolio), the chairman of the federal planning commission, and the chairman of the federal control commission.⁷

JUDICIAL DEPARTMENT

The "public prosecution," "an organ of the Peoples Assembly of the FPRY," supervises the "proper application of the law by all ministries and other administrative organs."⁸ The public prosecutor of FPRY appoints and dismisses all public prosecutors of the republics and their deputies, who otherwise are independent in their work."⁹

"The organs of justice in the Federal Peoples Republic of Yugoslavia are: the Supreme Court of the FPRY, the supreme courts of the republics and autonomous provinces, the departmental and district courts."¹⁰ The courts are "independent in their dispensing of justice" and are "separate from the administration in all instances."¹¹ Judges of the federal Supreme Court are elected by the Assembly.¹²

AREA, POPULATION, LANGUAGE

Yugoslavia has an area of 95,558 square miles and an estimated population of 16,000,000. The prevailing language is Serb-Croat-Slovene.

¹ Const., Art. 54.

⁴ Id., Art. 74 (10), (14), (7), (4).

⁷ Id., Art. 81.

¹⁰ Id., Art. 115.

² Id., Art. 73.

⁵ Id., Art. 74 (12).

⁸ Id., Art. 124.

¹¹ Id., Art. 116.

³ Id., Art. 74.

⁶ Id., Art. 77.

⁹ Id., Arts. 125, 126.

¹² Id., Art. 121.

CONSTITUTION OF THE FEDERAL PEOPLES REPUBLIC OF YUGOSLAVIA¹

January 30, 1946

PART ONE FUNDAMENTAL PRINCIPLES

CHAPTER I

The Federal Peoples Republic of Yugoslavia

Art. 1. The Federal Peoples Republic of Yugoslavia is a federal people's state, republican in form, a community of peoples equal in rights who, on the basis of the right to self-determination, including the right of separation, have expressed their will to live together in a federative state.

Art. 2. The Federal Peoples Republic of Yugoslavia is composed of the Peoples Republic of Serbia, the Peoples Republic of Croatia, the Peoples Republic of Slovenia, the Peoples Republic of Bosnia and Herzegovina, the Peoples Republic of Macedonia and the Peoples Republic of Montenegro.

The Peoples Republic of Serbia includes the Autonomous Province of Vojvodina and the Autonomous Kosovo-Metohijan Region.

Art. 3. The state coat of arms of the Federal Peoples Republic of Yugoslavia represents a field encircled by ears of corn. At the base the ears are tied with a ribbon on which is inscribed the date 29-XI-1943. Between the tops of the ears is a five-pointed star. In the centre of the field five torches are laid obliquely, their several flames merging into one single flame.

Art. 4. The State flag of the Federal Peoples Republic of Yugoslavia consists of three colors: blue, white and red, with a red five-pointed star in the middle. The ratio of the width to the length of the flag is as one to two. The colors of the flag are placed horizontally in the following order from above: blue, white and red. Each color covers one third of the flag's width. The star has a regular five-pointed shape and a gold (yellow) border. The central point of the star coincides with the intersection point of the diagonals of the flag. The upmost point of the star reaches half way up the blue field of the flag, so that the lower points of the star occupy corresponding positions in the red field of the flag.

Art. 5. The principal town of the Federal Peoples Republic of Yugoslavia is Belgrade.

¹ Translation published in 1946 by the Information Officer, Embassy of the Federal Peoples Republic of Yugoslavia, Washington, D. C.

CHAPTER II

The Peoples Authority

Art. 6. All authority in the Federal Peoples Republic of Yugoslavia derives from the people and belongs to the people.

The people exercise their authority through freely elected representative organs of state authority, the people's committees, which, from local people's committees up to the assemblies of the people's republics and the People's Assembly of the FPRY, originated and developed during the struggle for national liberation against fascism and reaction, and are the fundamental achievement of that struggle.

Art. 7. All the representative organs of state authority are elected by the citizens on the basis of universal, equal, and direct suffrage by secret ballot.

The people's representatives in all organs of state authority are responsible to their electors. It will be determined by law in which cases, under what conditions and in what way the electors may recall their representatives even before the end of the period for which they were elected.

Art. 8. The organs of state authority exercise their power on the basis of the Constitution of the FPRY, the constitutions of the people's republics, the laws of the FPRY, the laws of the people's republics, and the general regulations issued by the higher organs of state authority.

All acts of the state administration and judiciary organs must be founded on law.

CHAPTER III

Fundamental Rights of the Peoples and the Peoples Republics

Art. 9. The sovereignty of the people's republics composing the Federal Peoples Republic of Yugoslavia is limited only by the rights which by this Constitution are given to the Federal Peoples Republic of Yugoslavia.

The Federal Peoples Republic of Yugoslavia protects and defends the sovereign rights of the people's republics.

The Federal Peoples Republic of Yugoslavia protects the security and the social and political order of the people's republics.

Art. 10. Any act directed against the sovereignty, equality, and national freedom of the peoples of the Federal Peoples Republic of Yugoslavia and their people's republics is contrary to the Constitution.

Art. 11. Each people's republic has its own constitution.

The people's republic makes its constitution independently.

The constitution of the people's republic reflects the special characteristics of the republic and must be in conformity with the Constitution of the FPRY.

Art. 12. The People's Assembly of the FPRY determines the boundaries between the people's republics.

The boundaries of a people's republic cannot be altered without its consent.

Art. 13. National minorities in the Federal Peoples Republic of Yugoslavia enjoy the right to and protection of their own cultural development and the free use of their own language.

CHAPTER IV

Social-Economic Organization

Art. 14. Means of production in the Federal Peoples Republic of Yugoslavia are either the property of the entire people, i. e. property in the hands of the state, or the property of the people's co-operative organizations, or else the property of private persons or legal entities.

All mineral and other wealth under ground, the waters, including mineral and medicinal waters, the sources of natural power, the means of rail and air transport, the posts, telegraphs, telephones, and broadcasting are national property.

The means of production in the hands of the state are exploited by the state itself or given to others for exploitation.

Foreign trade is under control of the state.

Art. 15. In order to protect the vital interests of the people to further the people's prosperity and the right use of all economic potentialities and forces, the state directs the economic life and development of the country in accordance with a general economic plan, relying on the state and co-operative economic sectors, while achieving a general control over the private economic sector.

In carrying out the general economic plan and economic control, the state relies on the co-operation of syndicalist organizations of workmen and employees and other organizations of the working people.

Art. 16. The property of the entire people is the mainstay of the state in the development of the national economy.

The property of the entire people is under the special protection of the state.

The administration and disposal of the property of the entire people are determined by law.

Art. 17. The state devotes special attention to the people's co-operative organizations and offers them assistance and facilities.

Art. 18. Private property and private initiative in economy are guaranteed.

The inheritance of private property is guaranteed. The right of inheritance is regulated by law.

No person is permitted to use the right of private property to the detriment of the people's community.

The existence of private monopolist organizations such as cartels, syndicates, trusts, and similar organizations, created for the purpose of dictating prices, monopolizing the market, and damaging the interests of the national economy, is forbidden.

Private property may be limited or expropriated if the common interest requires it, but only in accordance with the law. It will be determined by law in which cases and to what extent the owner shall be compensated.

Under the same conditions individual branches of national economy or single enterprises may be nationalized by law if the common interest requires it.

Art. 19. The land belongs to those who cultivate it.

The law determines whether and how much land may be owned by an institution or a person who is not a cultivator.

There can be no large land-holdings in private hands on any basis whatsoever.

The maximum size of private land-holdings will be determined by law.

The state particularly protects and assists poor peasants and peasants with medium-sized holdings by its general economic policy, its low rates of credit, and its tax system.

Art. 20. By economic and other measures the state assists the working people to associate and organize themselves for their protection against economic exploitation.

The state protects persons who are engaged as workers or employees especially by assuring them the right of association, by limiting the working day, by ensuring the right to paid annual holidays, by controlling working conditions, by devoting attention to housing conditions and social insurance.

Minors in employment enjoy the special protection of the state.

CHAPTER V

The Rights and Duties of Citizens

Art. 21. All citizens of the Federal Peoples Republic of Yugoslavia are equal before the law and enjoy equal rights regardless of nationality, race, and creed.

No privileges on account of birth, position, property status, or degree of education are recognized.

Any act granting privileges to citizens or limiting their rights on grounds of difference of nationality, race, and creed, and any propagation of national, racial, and religious hatred and discord are contrary to the Constitution and punishable.

Art. 22. The citizens of the Federal Peoples Republic of Yugoslavia are bound to comply with the Constitution and laws.

Art. 23. All citizens, regardless of sex, nationality, race, creed, degree of education, or place of residence, who are over eighteen years of age have the right to elect and be elected to all organs of state authority.

Citizens in the ranks of the Yugoslav Army have the same right to elect and be elected as other citizens.

The suffrage is universal, equal, and direct and is carried out by secret ballot.

The suffrage is not enjoyed by persons under guardianship, persons deprived of electoral rights by sentence of a court of law for the duration of the sentence, and persons who have lost their electoral rights in accordance with federal law.

Art. 24. Women have equal rights with men in all fields of state, economic, and social-political life.

Women have the right to the same pay as that received by men for the same work, and as workers or employees they enjoy special protection.

The state especially protects the interests of mothers and children by the establishment of maternity hospitals, children's homes and day-nurseries and by the right of mothers to a leave with pay before and after child-birth.

Art. 25. Freedom of conscience and freedom of religion are guaranteed to citizens.

The church is separate from the state.

Religious communities, whose teaching is not contrary to the Constitution, are free in their religious affairs and in the performance of religious

ceremonies. Religious schools for the education of priests are free and are under the general supervision of the state.

The abuse of the church and of religion for political purposes and the existence of political organizations on a religious basis are forbidden.

The state may extend material assistance to religious communities.

Art. 26. Matrimony and the family are under the protection of the state. The state regulates by law the legal relations of marriage and the family.

Marriage is valid only if concluded before the competent state organs. After the marriage, citizens may go through a religious wedding ceremony.

All matrimonial disputes come within the competence of the people's courts.

The registration of births, marriages, and deaths is conducted by the state.

Parents have the same obligations and duties to children born out of wedlock as to those born in wedlock. The position of children born out of wedlock is regulated by law.

Minors are under the special protection of the state.

Art. 27. Citizens are guaranteed the freedom of the press, freedom of speech, freedom of association, freedom of assembly, the freedom to hold public meetings and demonstrations.

Art. 28. Citizens are guaranteed inviolability of person.

No person may be detained under arrest for longer than three days without the written and motivated decision of a court of law or of a public prosecutor. The longest period of arrest is determined by law.

No person may be punished for a criminal act except by sentence of a competent court on the basis of the law establishing the competence of the court and defining the offense.

Punishments may be determined and pronounced only on the basis of the law.

No person, if within the reach of the state authorities, may be tried without being given a lawful hearing and duly invited to defend himself.

Punishments for infringements of legal prescriptions may be pronounced by the organs of the state administration only within the limits set by law.

No citizen of the Federal Peoples Republic of Yugoslavia may be banished from the country.

Only in cases defined by law, may a citizen be expelled from his place of residence.

Federal law determines in which cases and in what manner citizens of the Federal Peoples Republic of Yugoslavia may be deprived of their citizenship.

Citizens of the Federal Peoples Republic of Yugoslavia in foreign countries enjoy the protection of the Federal Peoples Republic of Yugoslavia.

Art. 29. The dwelling is inviolable.

Nobody may enter another person's dwelling or premises, or search them against the occupant's will, without a legal search-warrant.

A search may only be made in the presence of two witnesses. The occupant of the premises has the right to be present during the search of his dwelling or premises.

Art. 30. The privacy of letters and other means of communication is inviolable except in cases of criminal enquiry, mobilization, or war.

Art. 31. Foreign citizens persecuted on account of their struggle for the principles of democracy, for national liberation, the rights of the working people, or the freedom of scientific and cultural work, enjoy the right of asylum in the Federal Peoples Republic of Yugoslavia.

Art. 32. It is the duty of every citizen to work according to his abilities; he who does not contribute to the community cannot receive from it.

Art. 33. All public offices are equally accessible to all citizens in accordance with the conditions of the law.

It is the duty of citizens to perform conscientiously the public duties to which they have been elected or which are entrusted to them.

Art. 34. The defense of the fatherland is the supreme duty and honor of every citizen.

High treason is the greatest crime toward the people.

Military service is universal for all citizens.

Art. 35. The state ensures disabled ex-service men a decent living and free occupational training.

The children of fallen soldiers and of war victims are under the special care of the state.

Art. 36. The state promotes the improvement of public health by organizing and controlling health services, hospitals, pharmacies, sanatoria, nursing and convalescent homes, and other health institutions.

The state extends its care to the physical education of the people, especially of young people, in order to increase the health and the working capacity of the people and the power of defense of the state.

Art. 37. The freedom of scientific and artistic work is assured.

The state assists science and art with a view to developing the people's culture and prosperity.

Copyright is protected by law.

Art. 38. In order to raise the general cultural standard of the people, the state ensures the accessibility of schools and other educational and cultural institutions to all classes of the people.

The state pays special attention to the young and protects their education.

Schools are state-owned. The founding of private schools may be permitted only by law, and their work is controlled by the state.

Elementary education is compulsory and free.

The school is separate from the church.

Art. 39. Citizens have the right to address requests and petitions to the organs of the state authorities.

Citizens have the right of appeal against the decisions of the organs of the state administration and the irregular proceedings of official persons. The procedure for lodging an appeal will be prescribed by law.

Art. 40. Every citizen has the right to file a suit against official persons before a competent tribunal on account of criminal acts committed by them in their official work.

Art. 41. Subject to conditions prescribed by law, citizens have the right to seek indemnity from the state and from official persons for damage resulting from the illegal or irregular discharge of official functions.

Art. 42. All citizens shall pay taxes in proportion to their economic capacity.

Public taxes and duties and exemptions from them are established only by law.

Art. 43. With a view to safeguarding the civic liberties and democratic organization of the Federal Peoples Republic of Yugoslavia, established by this Constitution, it is declared illegal and punishable to make use of civic rights in order to change or undermine the constitutional order for anti-democratic purposes.

PART TWO

ORGANIZATION OF THE STATE

CHAPTER VI

The Federal Peoples Republic of Yugoslavia and the People's Republics

Art. 44. The Federal Peoples Republic of Yugoslavia exercises all the rights vested in it by the Constitution.

Under the jurisdiction of the Federal Peoples Republic of Yugoslavia as represented by the highest federal organs of state authority and the organs of state administration are included:

- (1) Amendments to the Constitution of the FPRY, control over the observance of the Constitution, and the ensuring of the conformity of the constitutions of the people's republics with the Constitution of the FPRY;
- (2) The admission of new republics and approval of the foundation of new autonomous provinces and autonomous regions;
- (3) The delimitation of boundaries between the republics;
- (4) The representation of the Federal Peoples Republic of Yugoslavia in international relations; international treaties;
- (5) Questions of war and peace;
- (6) The general direction and control of commercial relations with foreign countries;
- (7) National defense and the security of the state;
- (8) Traffic by rail, air, river, and sea and navigational affairs of national importance;
- (9) Posts, telegraphs, telephones, and wireless;
- (10) Federal citizenship;
- (11) Matters connected with emigration and immigration; the legal status of foreigners;
- (12) The general economic plan of the state; statistics;
- (13) The federal budget; the passing of the general state budget and of final accounts; supreme control over the administration of the general state budget;
- (14) The monetary and credit system; federal loans; foreign exchange and currency transactions; insurance; customs; state monopolies;
- (15) Patents, trade marks, models, samples, measures, weights, precious metals;
- (16) Care for disabled ex-service men;
- (17) Amnesty and pardon in cases of acts violating federal laws;
- (18) Financial, industrial, mining, building, commercial, forestry, and agricultural concerns of national importance;
- (19) Roads, rivers, canals, and ports of national importance;
- (20) Control over the carrying out of federal laws;
- (21) Legislation concerning the distribution of revenues to the federal budget, the budgets of the republics and those of autonomous and administrative-territorial units; legislation concerning public loans and taxes;
- (22) Legislation concerning the organization of the law-courts, public prosecution, advocateship; criminal law; commercial, exchange, and cheque law; maritime law; legislation concerning civil procedure litigious and non-

litigious, executive, bankruptcy, criminal, and general administrative procedure; the personal status of citizens;

(23) Basic legislation concerning labor, enterprises, and social insurance; co-operative societies; civil rights;

(24) The establishment of general principles for the legislation and administration of the republics in the domains of agriculture, mining, forestry, hunting, water power; building; economic administration; regulation of prices; health and physical culture; education; social welfare and the organization of state authority. The republics may issue their own prescriptions in these matters until general principles are laid down by the Federal Peoples Republic of Yugoslavia.

Outside these matters the people's republics exercise their authority independently.

Art. 45. The territory of the Federal Peoples Republic of Yugoslavia consists of the territories of its republics and forms a single state and economic area.

Art. 46. Federal laws are valid throughout the territory of the Federal Peoples Republic of Yugoslavia.

In case of discrepancy between federal laws and the laws of the republics, federal law shall be applied.

Art. 47. The traffic of goods between republics is free and cannot be restricted by the laws of any republic.

Acts and documents issued by organs of state administration and organs of justice of one republic have the same validity in every republic.

Art. 48. A single federal citizenship is established for the citizens of the Federal Peoples Republic of Yugoslavia. Every citizen of a people's republic is at the same time a citizen of the Federal Peoples Republic of Yugoslavia.

Every citizen of a republic enjoys in every republic the same rights as the citizens of that republic.

CHAPTER VII

The Supreme Federal Organs of State Authority

(a) The People's Assembly of the Federal Peoples Republic of Yugoslavia

Art. 49. The People's Assembly of the Federal Peoples Republic of Yugoslavia is the representative of the sovereignty of the people of the Federal Peoples Republic of Yugoslavia.

Art. 50. The People's Assembly is the supreme organ of state authority of the Federal Peoples Republic of Yugoslavia and exercises all those rights belonging to the Federal Peoples Republic of Yugoslavia which are not transferred by the Constitution to the jurisdiction of other federal organs of state authority and state administration.

Art. 51. The People's Assembly of the FPRY exercises exclusively the power of legislation in all matters within the jurisdiction of the Federal Peoples Republic of Yugoslavia.

Art. 52. The People's Assembly of the FPRY consists of two houses—the Federal Council and the Council of Nationalities.

Art. 53. The Federal Council is elected by all citizens of the Federal Peoples Republic of Yugoslavia. For every fifty thousand inhabitants one deputy is elected.

Art. 54. The Council of Nationalities is elected in the republics, autonomous provinces, and autonomous regions. The citizens of each republic elect thirty, the autonomous provinces twenty, and the autonomous regions fifteen representatives.

Art. 55. No person can be a deputy in both houses of the People's Assembly of the FPRY at the same time.

Art. 56. The People's Assembly of the FPRY is elected for a term of four years.

Art. 57. Both houses of the People's Assembly of the FPRY have equal rights.

Art. 58. The houses of the People's Assembly of the FPRY sit as a rule separately.

The sessions of the Federal Council and the Council of Nationalities open and close simultaneously.

Art. 59. The Federal Council elects a president, two vice-presidents, and three secretaries.

The Council of Nationalities elects a president, two vice-presidents, and three secretaries.

The presidents conduct the meetings of the houses and their work according to the rules of procedure.

Art. 60. The sessions of the People's Assembly of the FPRY are regular or extraordinary and are convened by a decree of the presidium of the People's Assembly of the FPRY.

Regular sessions are convened twice a year: on the fifteenth of April and on the fifteenth of October. If the People's Assembly is not convened on these dates, it can meet even without the decree of the presidium.

Extraordinary sessions are convened whenever the presidium of the People's Assembly of the FPRY considers it necessary, whenever one of the republics requests it through its supreme organ of state authority, or if one third of the deputies of one house request it.

Art. 61. Both houses of the People's Assembly of the FPRY sit in joint meeting only when this Constitution expressly provides for it or when both houses so decide.

Joint meetings of the People's Assembly of the FPRY are presided over alternatively by the presidents of the houses.

At a joint meeting of the People's Assembly of the FPRY resolutions are carried by a majority of votes. For the passing of resolutions the presence of the majority of the deputies of each house is required.

Art. 62. Each house prescribes its own rule of order and the People's Assembly of the FPRY prescribes the rule of procedure for joint meetings.

Art. 63. The government of the FPRY, the members of the government of the FPRY and the deputies of both houses have the right to introduce bills.

A bill may be introduced in either house of the People's Assembly of the FPRY.

No bill may become law unless it receives a majority of votes in both houses during a meeting at which a majority of the deputies of each house is present.

Art. 64. Each house of the People's Assembly of the FPRY has the right to propose amendments to a bill already accepted in one house. Thus amended the bill is returned for confirmation to the house in which it originated.

If agreement is not reached, the matter is submitted to a co-ordinating committee of the People's Assembly of the FPRY, which comprises an equal number of members of both houses.

If the co-ordinating committee does not reach an agreement or if one of the houses rejects the solution proposed by the co-ordinating committee, the houses will reconsider the whole matter.

If again no agreement is reached, the People's Assembly of the FPRY shall be dissolved.

The dissolution decree shall also embody the order for holding new elections.

Art. 65. Laws and other general prescriptions of the Federal Peoples Republic of Yugoslavia are published in the languages of the people's republics.

Art. 66. A law comes into force on the eighth day after its publication in the "Official Gazette of the FPRY," unless the law itself provides otherwise.

Art. 67. Each house elects committees to which it entrusts specific matters.

Each house at its first meeting elects a verification committee which examines the deputies' mandates.

On the proposal of its committee each house confirms or annuls the deputies' mandates.

Art. 68. The People's Assembly of the FPRY and each of its houses may, through their enquiry committees, carry out enquiries on any matter of general significance.

It is the duty of all state organs to comply with the demands of enquiry committees for the establishment of facts and collection of evidence.

Art. 69. Deputies of the People's Assembly of the FPRY enjoy rights of immunity.

Deputies may not be arrested nor may criminal proceedings be instituted against them without the approval of the house to which they belong or of the presidium of the People's Assembly of the FPRY, unless taken in the act of committing an offense, in which case the presidium of the People's Assembly must immediately be informed.

Art. 70. In case of war or similar extraordinary circumstances, the People's Assembly of the FPRY may prolong the duration of its mandate as long as such circumstances exist.

The People's Assembly of the FPRY may decide to dissolve even before the end of the period for which it was elected.

Art. 71. Elections for a new People's Assembly of the FPRY must be announced before the expiry of the last day of the period for which the outgoing People's Assembly was elected.

Not less than two and not more than three months shall elapse between the date of dissolution of the People's Assembly of the FPRY and the date of elections for a new People's Assembly of the FPRY.

Art. 72. The People's Assembly of the FPRY passes amendments to the Constitution.

A proposal to amend the Constitution may be submitted by the presidium of the People's Assembly of the FPRY, by the government of the FPRY, or by one third of the deputies of one of the houses.

A proposed amendment to the Constitution must be approved by a majority of votes in each house.

The proposed amendment to the Constitution is adopted if an absolute majority of the total number of deputies in each house votes in its favor.

An adopted amendment to the Constitution is promulgated by the People's Assembly of the FPRY at a joint meeting of both houses.

(b) The Presidium of the People's Assembly of the
Federal Peoples Republic of Yugoslavia

Art. 73. The People's Assembly of the FPRY elects the presidium of the People's Assembly of the FPRY at a joint meeting of both houses.

The presidium of the People's Assembly of the FPRY consists of a president, six vice-presidents, a secretary, and not more than thirty members.

Art. 74. The Presidium of the People's Assembly of the FPRY performs the following functions:

- (1) Convenes the sessions of the People's Assembly of the FPRY;
- (2) Dissolves the People's Assembly of the FPRY in the event of disagreement of the houses over a bill;
- (3) Orders elections for the People's Assembly of the FPRY;
- (4) Gives the ruling as to whether a law of the republics is in conformity with the Constitution of the FPRY and with the federal laws, subject to the ratification of the People's Assembly of the FPRY, at the request of the government of the FPRY, the presidium of the people's assemblies of the republics, the Supreme Court of the FPRY, the public prosecutor of the FPRY, or on its own initiative;
- (5) Gives obligatory interpretations of federal laws;
- (6) Proclaims laws which have been passed; issues decrees;
- (7) Exercises the right of pardon according to the provisions of the law;
- (8) Awards decorations and confers honorary titles of the Federal Peoples Republic of Yugoslavia according to the provisions of the federal law;
- (9) Ratifies international treaties;
- (10) Appoints and recalls ambassadors, envoys extraordinary and ministers plenipotentiary to foreign countries on the proposal of the government of the FPRY;
- (11) Receives the credentials and letters of recall of diplomatic representatives accredited to it by foreign countries;
- (12) Declares general mobilization and state of war in the event of an armed attack against the Federal Peoples Republic of Yugoslavia, or in case of necessity for the immediate fulfillment of international obligations of the Federal Peoples Republic of Yugoslavia towards the international peace organization or towards an allied country;
- (13) On the proposal of the President of the government of the FPRY and subject to ratification by the People's Assembly of the FPRY, appoints and relieves of their office individual members of the government during the period between two sessions of the People's Assembly of the FPRY;
- (14) Appoints the deputies of members of the government on the proposal of the President of the government of the FPRY;
- (15) Modifies, unites, and abolishes existing ministries and commissions on the proposal of the President of the government of the FPRY, during the period between sessions of the People's Assembly of the FPRY and subject to ratification by the latter;
- (16) Determines, upon the proposal of the government of the FPRY, what enterprises and institutions are of national significance and come under the direct administration of the federal government;

(17) Orders a people's referendum on matters within the jurisdiction of the Federal Peoples Republic of Yugoslavia on the basis of a resolution of the People's Assembly of the FPRY or on the proposal of the government of the FPRY.

The decrees of the presidium of the People's Assembly of the FPRY are signed by the president and the secretary.

Art. 75. The presidium of the People's Assembly of the FPRY is responsible for its work to the People's Assembly of the FPRY. The People's Assembly of the FPRY may recall the presidium and elect a new one, and also relieve individual members of their functions and elect new ones even before the end of the term for which they have been elected.

Art. 76. When the People's Assembly of the FPRY is dissolved, the presidium carries out its duty until the presidium of the new People's Assembly of the FPRY is elected.

The newly-elected People's Assembly of the FPRY shall meet within one month of the conclusion of the elections.

CHAPTER VIII

Federal Organs of State Administration

Art. 77. The highest executive and administrative organ of state authority of the Federal Peoples Republic of Yugoslavia is the government of the FPRY.

The government of the FPRY is appointed and relieved of its functions by the People's Assembly of the FPRY at a joint meeting of both houses.

The government of the FPRY is responsible to and accountable for its work to the People's Assembly of the FPRY. In the interval between two sessions of the People's Assembly of the FPRY the government is responsible and accountable for its work to the presidium of the People's Assembly of the FPRY.

Art. 78. The government of the FPRY acts on the basis of the Constitution and federal laws.

The government of the FPRY issues regulations for the application of laws and regulations on the basis of legal authorization, as well as instructions and orders for the execution of federal laws. The government of the FPRY sees to the execution of federal laws and supervises their application.

Regulations, instructions, orders, and decisions of the government of the FPRY are signed by the President of the government and by the responsible minister.

Art. 79. Regulations, instructions, orders, and decisions of the government of the FPRY are binding throughout the territory of the Federal Peoples Republic of Yugoslavia.

Art. 80. The government of the FPRY directs and co-ordinates the work of its ministries, commissions, and committees.

The government of the FPRY sees to the preparing and carrying out of the national economic plan and budget; draws up and carries out the annual economic plans; controls the credit and monetary system; undertakes all necessary measures for the safeguarding and protection of the constitutional order and of the rights of citizens; directs the general

organization of the Yugoslav army; directs the maintenance of relations with foreign states; sees to the carrying out of international treaties and obligations; decides upon bills presented by individual members of the government to the People's Assembly of the FPRY; prescribes the internal organization of ministries and of subordinate institutions; appoints committees, commissions, and institutions for the carrying out of economic, defensive, and cultural measures.

Art. 81. The government of the FPRY consists of the President, vice-presidents; ministers, the chairman of the federal planning commission, and the chairman of the federal control commission.

The government of the FPRY may also include ministers without portfolio.

Art. 82. The members of the government of the FPRY, before taking up their duties, take the oath before the presidium of the People's Assembly of the FPRY.

Art. 83. The President of the government of the FPRY represents the government, presides over the meetings and directs the work of the government.

Art. 84. Members of the government of the FPRY are responsible under criminal law if, in the execution of their official duties, they trespass against the Constitution and laws.

They are responsible for any damage which they cause to the state by illegal acts.

More explicit provisions concerning the responsibility of members of the government of the FPRY are laid down by federal law.

Art. 85. The ministers of the government of the FPRY direct the branches of the state administration which come within the competence of the Federal Peoples Republic of Yugoslavia.

The ministers of the federal government, the chairman of the federal planning commission and the chairman of the federal control commission issue rules, instructions, and orders on the basis of and for the application of federal laws, regulations, instructions, and orders of the federal government.

The ministers see to the proper execution of the federal laws, regulations, instructions, and orders of the federal government and are responsible for their application within the branch of state administration under their direction.

Art. 86. The ministries of the government of the FPRY are either federal or federal-republican.

Federal ministries are: the ministry of foreign affairs; the ministry of national defense; the ministry of communications; the ministry of shipping; the ministry of posts; the ministry of foreign trade.

Federal-republican ministries are: the ministry of finance; the ministry of the interior; the ministry of justice; the ministry of industry; the ministry of mines; the ministry of commerce and supplies; the ministry of agriculture and forestry; the ministry of labor; the ministry of public works.

Art. 87. The federal ministries administer, as a rule directly through their own organs, a given branch of state administration throughout the territory of the Federal Peoples Republic of Yugoslavia.

The federal ministries, in order to carry out those affairs for which they are responsible, may appoint their representatives to the govern-

ments of the republics and set up departments and sections attached to the people's committees.

Art. 88. The federal-republican ministries direct a determined branch of state administration indirectly through the corresponding ministries of the people's republics, and can administer directly only specified affairs, enterprises, and institutions of national significance.

Art. 89. The government of the FPRY includes committees concerned with education and culture, public health and social welfare and appointed for the general direction of these branches of state administration.

Such committees may be formed for other affairs of state administration.

CHAPTER IX

Supreme Organs of State Authority of the People's Republics

Art. 90. The supreme organ of state authority of a people's republic is the people's assembly of the republic.

The people's assembly of a republic is elected by the citizens of the republic for a period of four years according to the terms of the constitution and the laws of the republic.

Art. 91. The people's assembly of a republic exercises the sovereign rights of the republic in the name of the people on the basis of the constitution of the republic and in conformity with the Constitution of the FPRY. It deals with all matters within the jurisdiction of the republic in so far as they are not transferred by the constitution of the republic to the competence of the presidium of the people's assembly of the republic or to the government of the republic.

Art. 92. Legislative power in the republic is exercised exclusively by the people's assembly of the republic.

Art. 93. The people's assembly of the republic elects a president, a vice-president, and secretaries to conduct its sessions.

Art. 94. The people's assembly elects the presidium of the people's assembly of the republic, consisting of a president, one or more vice-presidents, a secretary, and members, whose number is determined by the constitution of the republic.

The competence of the presidium of the people's assembly of the republic is determined by the constitution of the republic.

Art. 95. The people's assembly of the republic appoints the government of the republic and relieves it of its functions.

CHAPTER X

Organs of State Administration of the People's Republics

Art. 96. The highest executive and administrative organ of state authority of a people's republic is the government of the people's republic.

The government of a people's republic is responsible to the people's assembly of the republic, to which it gives account for its work. In the interval between two sessions of the people's assembly, the government of the republic is responsible and accountable for its work to the presidium of the people's assembly of the republic.

Art. 97. The government of a republic acts on the basis of the Constitution of the FPRY, the constitution of the republic, the federal laws, the laws of the republic, and the regulations, instructions, and orders of the federal government.

The government of a republic issues regulations for the application of the federal laws, the laws of the republic, the regulations, instructions, and orders of the federal government; it issues regulations on the basis of legal authorization and also instructions and orders for the application of federal laws and the laws of the republic and controls their application.

Art. 98. The ministers of a republic have the right to issue rules, orders, and instructions on the basis of and for the execution of the federal laws, the laws of the republic, and the regulations, instructions, and orders of the federal government and the government of the republic.

The ministers of the republic supervise the proper execution of the federal laws, the laws of the republic and the regulations, instructions, and orders of the federal government and the government of the republic.

Art. 99. The ministries of a republic are federal-republican or republican.

Art. 100. Federal-republican ministries in a people's republic direct specified branches of state administration and, in addition to matters within their own competence, deal with matters in the competence of the federal-republican ministries of the federal government, on the basis of their rules, instructions, orders, and decisions.

Art. 101. The republican ministries direct independently certain specified branches of state administration which come within the competence of the people's republic concerned.

Art. 102. The ministries of a republic are determined by the constitution of the republic in conformity with the Constitution of the FPRY.

The presidium of the people's assembly of a republic may change, unite, or abolish the existing ministries in conformity with the Constitution of the FPRY, the constitution of the republic, the federal laws, and the decisions of the presidium of the People's Assembly of the FPRY.

CHAPTER XI

Organs of State Authority of Autonomous Provinces and Autonomous Regions

Art. 103. The rights and the scope of the autonomy of autonomous provinces and autonomous regions are determined by the constitution of the republic.

Art. 104. The statute of an autonomous province or of an autonomous region is drawn up in conformity with the Constitution of the FPRY and the constitution of the republic by the highest organ of state authority of the autonomous province or autonomous region, and is confirmed by the people's assembly of the republic.

Art. 105. The highest organ of state authority of an autonomous province is the people's assembly of the autonomous province, which is elected by the citizens of the autonomous province for a period of three years and meets in accordance with the provisions of the constitution of the republic.

The people's assembly of an autonomous province elects the principal executive committee of the autonomous province as its executive and administrative organ.

Art. 106. The highest organ of state authority of an autonomous region is the regional people's committee, which is elected by the citizens of the autonomous region for a period of three years and holds its assemblies in accordance with the provisions of the constitution of the republic.

The regional people's committee elects the regional executive committee as its executive and administrative organ.

CHAPTER XII

Organs of State Authority of Administrative-Territorial Units

Art. 107. The people's committees are the organs of state authority in localities (villages, small towns), districts, town-wards, towns, departments, and regions.

The people's committees of localities are elected by the citizens for a term of two years and the people's committees of districts, town-wards, towns, departments, and regions are elected by the citizens for a term of three years.

The people's committees of districts, town-wards, towns, departments, and regions hold their regular assemblies within terms prescribed by the constitution of the people's republic.

Art. 108. The people's committees direct the work of subordinate organs of administration and economic and cultural development in their sphere of action; they ensure the maintenance of public order, the execution of the laws, and the protection of the rights of citizens; they draw up their own budgets.

The people's committees issue, within the framework of their competence, general rules (decisions) on the basis of the federal Constitution, the constitution of the republic, the federal laws, the laws of the republic, and the general rules of higher organs of state authority.

Art. 109. It is the duty of the people's committees, in the execution of their general and local duties, to rely on the initiative and wide participation of the masses of the people and the workers' organizations.

Art. 110. The executive and administrative organs of the people's committees, except in smaller villages, are the executive committees. An executive committee consists of a president, vice-president, secretary, and members.

Executive committees are elected by the people's committees from among their members.

Art. 111. The executive organ of the people's committee of a smaller village consists of a chairman and a secretary.

Art. 112. The local people's committee convenes, within the time-limits set by law, a local meeting of the electors to whom they are accountable for their work. The rights and duties of the local meeting of electors are determined by law.

Art. 113. The executive and administrative organs of the people's committees are subordinate both to their own people's committees and also to executive and administrative organs of state authority of higher rank.

Art. 114. A people's committee may have, under the control of its executive committee, departments or sections to deal with individual branches of administration. The departments and sections are subordinate in their work to the executive committee and at the same time to the corresponding department of the higher people's committee and to the competent ministry of the republic.

CHAPTER XIII

The People's Courts

Art. 115. The organs of justice in the Federal Peoples Republic of Yugoslavia are: the Supreme Court of the FPRY, the supreme courts of the republics and autonomous provinces, the departmental and district courts.

The organization and competence of military tribunals are regulated by federal law.

Special courts for specified categories of disputes may be set up by law.

Art. 116. The law-courts are independent in their dispensing of justice and mete out justice according to the law.

The courts are separate from the administration in all instances.

Higher courts have, within the limits of the law, the right of supervision over lower courts.

Art. 117. The law-courts dispense justice in the name of the people.

Art. 118. Proceedings in the law-courts are as a rule public.

The resolutions of a court may only be altered by a competent higher court.

The accused is guaranteed the right of defense before a court.

Art. 119. All courts as a rule judge in council.

The council of district and departmental courts, when judging in the first instance, consist of judges and judges-jurors, who have equal rights in the court's proceedings.

Art. 120. Judicial proceedings in the courts are conducted in the languages of the republics, autonomous provinces, and autonomous regions where the courts are located. Citizens not speaking the language in which the proceedings are conducted, may use their own language. Such citizens are guaranteed the right to acquaint themselves with all the legal material and to follow the proceedings of the court through an interpreter.

Art. 121. Judges of the Supreme Court of the FPRY are elected and released from their functions by the People's Assembly of the FPRY at a joint meeting of both houses.

Judges of the supreme court of a republic or autonomous province are elected and released from their functions by the people's assembly of the republic or by the people's assembly of the autonomous province.

Judges and judges-jurors of a departmental court in a department or town are elected and released from their functions by the people's committee of the department or town.

Judges and judges-jurors of a district court in a district or town are elected and released from their functions by the people's committee of the district or town.

Art. 122. The Supreme Court of the FPRY is the highest organ of justice of the Federal Peoples Republic of Yugoslavia.

It is determined by federal law in what cases the Supreme Court of the FPRY shall judge in the first and in what cases in the second instance.

Art. 123. The Supreme Court of the FPRY decides on the legality of the judgments of all courts in the Federal Peoples Republic of Yugoslavia from the point of view of the application of federal laws.

The supreme courts of republics and autonomous provinces ascertain the legality of the judgments of all courts of the republic or autonomous province.

CHAPTER XIV

Public Prosecution

Art. 124. The public prosecution is the organ of the People's Assembly of the FPRY for supervising the proper application of the law by all ministries and other administrative organs and institutions subordinate to them in the Federal Peoples Republic of Yugoslavia and in the people's republics, by public officials, and by all citizens.

Art. 125. The public prosecutor of the FPRY and his deputies are elected and released from their functions by the People's Assembly of the FPRY at a joint meeting of both houses.

The public prosecutors of the people's republics and their deputies are appointed and released from their functions by the public prosecutor of the FPRY.

The public prosecutors of autonomous provinces, autonomous regions, regions, departments, and districts are appointed and released from their functions by the public prosecutor of the republic subject to the confirmation of the public prosecutor of the FPRY.

Art. 126. Public prosecutors are independent in their work and are subordinate only to the public prosecutor of the FPRY.

Art. 127. Public prosecutors have the right to enter appeals and suits, the right of legal intervention in the course of judicial and administrative proceedings, the right to institute criminal proceedings, and the right to file a demand for the defense of legality against valid resolutions of law-courts and administrative organs.

Art. 128. The military prosecutor of the Yugoslav army and other military prosecutors are appointed by the commander-in-chief of the Yugoslav army.

The organization and competence of the military prosecution will be determined by federal law.

CHAPTER XV

Relations between the Organs of State Authority and the Organs of State Administration

Art. 129. The presidium of the People's Assembly of the FPRY has the right to annul or abolish the regulations, instructions, orders, and decisions of the federal government, if they are not in conformity with the Constitution and federal laws.

The federal government has the right to annul or abolish the rules, orders, instructions, and decisions of members of the federal government,

if they are not in conformity with the Constitution, the federal laws and the regulations, instructions, orders, and decisions of the federal government.

Art. 130. The presidium of the people's assembly of a republic has the right to annul or abolish the regulations, instructions, orders, and decisions of the government of the republic, if they are not in conformity with the Constitution of the FPRY, the constitution of the republic, the federal laws, and the laws of the republic.

The government of the republic has the right to annul or abolish the rules, orders, instructions, and decisions of the ministers of the republic, if they are not in conformity with the federal Constitution, the constitution of the republic, federal laws, the laws of the republic, and the regulations, instructions, orders, and decisions of the government of the republic.

Art. 131. In matters within federal competence, the federal government has the right to suspend the acts of the government of a republic and abolish the acts of the ministers of a republic, if they are not in conformity with the federal Constitution, the constitution of the republic, the federal laws, the laws of the republic, the regulations, instructions, and orders of the federal government, or the rules, orders, and instructions of a member of the federal government.

Under the same conditions the members of the federal government have the right to suspend the acts of the ministers of the republic.

Art. 132. The presidium of the people's assembly of a republic or the people's assembly of an autonomous province and the people's committees of higher rank have the right to annul or abolish illegal and irregular acts of people's committees of lower rank.

The government of a republic, its individual ministers, and the principal executive committee of an autonomous province have the right within the limits of their competence to annul or abolish the illegal or irregular acts of executive committees. The executive committees of people's committees of higher rank have the same rights towards executive committees of lower rank.

A people's committee has the right to annul or abolish illegal and irregular acts of its executive committee.

The executive committee of a people's committee of higher rank or the principal executive committee of an autonomous province and the government of a republic have the right to suspend the execution of illegal and irregular acts of a people's committee of lower rank and to propose to its own people's committee or to the people's assembly of the autonomous province or to the presidium of the people's assembly of the republic respectively to annul or abolish them.

Art. 133. A people's committee of higher rank, the people's assembly of an autonomous province, or the presidium of the people's assembly of a republic has the right to dissolve any people's committee of lower rank and to order elections for a new people's committee to be held. A people's committee of higher rank, the people's assembly of an autonomous province or the presidium of the people's assembly of a republic has the right to release from its functions the executive committee of any people's committee of lower rank and to order elections for a new executive committee to be held.

CHAPTER XVI

The Yugoslav Army

Art. 134. The Yugoslav army is the armed force of the Federal Peoples Republic of Yugoslavia. Its duty is to safeguard and defend the independence of the state and the freedom of the people. It is the guardian of the inviolability of the state frontiers and serves the maintenance of peace and security.

Art. 135. The commander-in-chief of the Yugoslav army is appointed by the People's Assembly of the FPRY at a joint meeting of both houses. The commander-in-chief directs the entire military and armed forces of the Federal Peoples Republic of Yugoslavia.

PART THREE

TRANSITIONAL AND CONCLUDING PROVISIONS

Art. 136. On the day when the Constitution comes into force, all laws and other legal dispositions contrary to the Constitution are abolished.

Resolutions, laws, and regulations confirmed by the decision of the Constituent Assembly of December first, 1945, remain in force until a final resolution with regard to them is made.

The legislative committees of both houses of the People's Assembly of the FPRY are authorized, within a period of six months from the day when the Constitution comes into force, to examine all resolutions, laws, and regulations confirmed by the decision of the Constituent Assembly of December first, 1945, to bring them into conformity with the Constitution and to issue laws deciding which of those resolutions, laws, and regulations shall remain in force without modification or to issue laws for the modification and amplification of those resolutions, laws, and regulations. These laws, issued by the legislative committees of both houses of the People's Assembly of the FPRY, are promulgated by a decree of the presidium of the People's Assembly of the FPRY and are submitted for confirmation to the People's Assembly of the FPRY at its first subsequent session. The proposals of resolutions, laws, and regulations shall, in order to be brought into conformity with the Constitution, be transmitted by the President of the government of the FPRY to the legislative committees.

Art. 137. All persons under the age of eighteen, who have been entered in the lists of electors for the Constituent Assembly, shall retain the electoral right thus acquired.

Art. 138. Existing ministries which are not provided for by the Constitution in the composition of the government of the FPRY may remain in the composition of the government until a resolution with regard to them is passed in accordance with Article 74, § 15, of the Constitution.

Art. 139. The Constitution comes into force by promulgation at a joint meeting of both houses of the Constituent Assembly.

Given at Belgrade,
the principal town of the Federal Peoples
Republic of Yugoslavia,
January 31, 1946.

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COMPARATIVE TABLES

TABLE I—NATIONS—

	Approximate Date of Acquiring Present National Status	Signatory to Pact of Paris 1928 for Renun- ciation of War	PARTICIPATION IN INTER								
			Political and Judicial					Economic and Financial			
			United Nations	International Court of Justice		Permanent Court of Arbitration	Organ- ization of American States	Inter- national Trade Organ- ization (Signa- tures) ^a	Inter- national Bank for Recon- struction and Devel- opment	Inter- national Monet- ary Fund	Inter- national Union for Protection of Industrial Property
				Party to Statute	Subject to Compulsory Jurisdiction Under Art. 36 ²						
Afghanistan	1747	Yes	Yes	Yes	No	No	No	Yes	No	No	No
Albania	1912	Yes	No	No	No	No	No	No	No	No	No
Andorra	1278	No	No	No	No	No	No	No	No	No	No
Argentina	1811	No	Yes	Yes	No	Yes	Yes	No	No	No	No
Australia	1919	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes
Austria	1918	Yes	No	No	No	No ⁴	No	Yes	Yes	Yes	Yes
Belgium	1830	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Bhutan	895	No	No	No	No	No	No	No	No	No	No
Bolivia	1825	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Brazil	1822	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Bulgaria	1908	Yes	No	No	No	Yes	No	No	No	No	Yes
Burma	1947	No	Yes	Yes	No	No	No	Yes	No	No	No
Byelorussian SSR	1944	No	Yes	Yes	No	No	No	No	No	No	No
Canada	1919	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes
Ceylon	1948	No	No	No	No	No	No	Yes	No	No	Yes
Chile	1810	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No
China	1122 B.C.	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No
Colombia	1819	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Costa Rica	1829	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	No
Cuba	1899	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
Czechoslovakia	1918	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes
Denmark	925	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Dominican Republic	1821	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Ecuador	1830	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No
Egypt	1922	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	No
El Salvador	1839	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Ethiopia	1000 B.C.	Yes	Yes	Yes	No	No	No	No	Yes	Yes	No
Finland	1917	Yes	No	No	No	Yes	No	No	Yes	Yes	Yes
France	Eighth Century	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Germany	1871	Yes	No	No	No	Yes ⁵	No	No	No	No	Yes ²
Greece	1821	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes
Guatemala	1839	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Haiti	1804	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
Honduras	1838	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	No
Hungary	1918	Yes	No	No	No	Yes	No	No	No	No	Yes
Iceland	1918	Yes	Yes	Yes	No	No	No	No	Yes	Yes	No
India	1920	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	No

INTERNATIONAL STATUS

NATIONAL ORGANIZATIONS¹

Transport and Communications			Social and Health			Educational, Scientific and Cultural				
Inter- national Tele- commu- nications Union	Universal Postal Union	Inter- national Civil Aviation Organ- ization	Inter- national Labor Organ- ization	Inter- national Refugee Organ- ization	World Health Organ- ization	United Nations Educa- tional, Sci- entific and Cultural Organ- ization	Food and Agri- cultural Organ- ization of the United Nations	Inter- national Bureau of Weights and Measures	Inter- national Hydro- graphic Bureau	
Yes	Yes	Yes	Yes	No	Yes	Yes	No	No	No	Afghanistan
Yes	Yes	No	Yes	No	Yes	No	No	No	No	Albania
No	No	No	No	No	No	No	No	No	No	Andorra
Yes	Yes	Yes	Yes	Yes ⁷	Yes	Yes	No	Yes	Yes	Argentina
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Australia
Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes	No	Austria
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Belgium
No	No	No	No	No	No	No	No	No	No	Bhutan
Yes	Yes	Yes	Yes	Yes ⁷	No	Yes	Yes	No	No	Bolivia
Yes	Yes	Yes	Yes	Yes ⁷	Yes	Yes	Yes	No	Yes	Brazil
Yes	Yes	No	Yes	No	Yes	No	No	Yes	No	Bulgaria
Yes	Yes	No	Yes	No	Yes	No	Yes	No	No	Burma
Yes	Yes	No	No	No	No	No	No	No	No	Byelorussian SSR
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Canada
No	Yes	No	Yes	No	Yes	No	Yes	No	No	Ceylon
Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	No	Chile
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	China
Yes	Yes	Yes	Yes	No	No	Yes	Yes	No	No	Colombia
Yes	Yes	No	Yes	No	No	No	Yes	No	No	Costa Rica
Yes	Yes	No	Yes	No	No	Yes	Yes	No	No	Cuba
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Czechoslovakia
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Denmark
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Dominican Republic
Yes	Yes	No	Yes	No	No	Yes	Yes	No	No	Ecuador
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Egypt
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	El Salvador
Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Ethiopia
Yes	Yes	No	Yes	No	Yes	No	Yes	Yes	No	Finland
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	France
No	Yes ⁸	No	No	No	No	No	No	Yes ⁸	No	Germany
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Greece
Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	No	Guatemala
Yes	Yes	No	Yes	No	Yes	Yes	Yes	No	No	Haiti
Yes	Yes	No	No	Yes	No	Yes	Yes	No	No	Honduras
Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes	No	Hungary
Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	No	Iceland
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	India

TABLE I—NATIONS—

	Approximate Date of Acquiring Present National Status	Signatory to Pact of Paris 1928 for Renunciation of War	PARTICIPATION IN INTER								
			Political and Judicial					Economic and Financial			
			United Nations	International Court of Justice		Permanent Court of Arbitration	Organization of American States	International Trade Organization (Signatories) *	International Bank for Reconstruction and Development	International Monetary Fund	International Union for Protection of Industrial Property
				Party to Statute	Subject to Compulsory Jurisdiction Under Art. 36 ²						
Iran	Ninth Century B.C.	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No
Iraq	1921	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	No
Ireland	1921	Yes	No	No	No	No	No	Yes	No	No	Yes
Israel	1948	No	No	No	No	No	No	No	No	No	Yes
Italy	1861	Yes	No	No	No	Yes	No	Yes	Yes	Yes	Yes
Japan	Seventh Century A.D.	Yes ³	No	No	No	Yes ³	No	No	No	No	Yes ³
Jordan	1946	No	No	No	No	No	No	Yes	No	No	No
Korea	1945	No	No	No	No	No	No	No	No	No	No
Lebanon	1943	No	Yes	Yes	No	No	No	Yes	Yes	Yes	Yes
Liberia	1846	Yes	Yes	Yes	No	No	No	Yes	No	No	No
Liechtenstein	1866	No	No	No	No	No	No	No	No	No	Yes
Luxembourg	1841	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Mexico	1810	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Monaco	1860	No	No	No	No	No	No	No	No	No	No
Mongol Peoples Republic	1945	No	No	No	No	No	No	No	No	No	No
Nepal	1769	No	No	No	No	No	No	No	No	No	No
Netherlands	1813	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
New Zealand	1919	Yes	Yes	Yes	Yes	No	No	Yes	No	No	Yes
Nicaragua	1838	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Norway	1814	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Pakistan	1947	No	Yes	Yes	Yes	No	No	Yes	No	No	No
Panama	1903	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Paraguay	1811	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No
Peru	1821	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No
Philippines	1946	No	Yes	Yes	Yes	No	No	Yes	Yes	Yes	No
Poland	1918	Yes	Yes	Yes	No	Yes	No	No	Yes	Yes	Yes
Portugal	1147	Yes	No	No	No	Yes	No	Yes	No	No	Yes
Rumania	1878	Yes	No	No	No	Yes	No	No	No	No	Yes
San Marino	Fourth Century	No	No	No	No	No	No	No	No	No	No
Saudi Arabia	1927	No	Yes	Yes	No	No	No	No	No	No	No
Spain	1492	Yes	No	No	No	Yes	No	No	No	No	Yes
Sweden	Fourteenth Century	Yes	Yes	Yes	Yes	Yes	No	Yes	No	No	Yes
Switzerland	1281	Yes	No	Yes	Yes	Yes	No	Yes	No	No	Yes
Syria	1943	No	Yes	Yes	No	No	No	Yes	Yes	Yes	Yes
Thailand	Fourteenth Century	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	No

INTERNATIONAL STATUS (Continued)

NATIONAL ORGANIZATIONS¹

Transport and Communications			Social and Health			Educational, Scientific and Cultural				
Inter- national Tele- commu- nications Union	Universal Postal Union	Inter- national Civil Aviation Organ- ization	Inter- national Labor Organ- ization	Inter- national Refugee Organ- ization	World Health Organ- ization	United Nations Educa- tional, Sci- entific and Cultural Organ- ization	Food and Agri- cultural Organ- ization of the United Nations	Inter- national Bureau of Weights and Measures	Inter- national Hydro- graphic Bureau	
Yes	Yes	No	Yes	No	Yes	Yes	No	No	No	Iran
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	Iraq
Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	No	Ireland
Yes	Yes	No	No	No	No	No	No	No	No	Israel
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Italy
Yes ²	Yes ²	No	No	No	No	No	No	Yes ²	No	Japan
No	Yes	Yes	No	No	Yes	No	No	No	No	Jordan
No	Yes	No	No	No	No	No	No	No	No	Korea
Yes	Yes	No	Yes	No	Yes	Yes	Yes	No	No	Lebanon
Yes	Yes	Yes	Yes	Yes ⁷	Yes	Yes	Yes	No	No	Liberia
No	No	No	No	No	No	No	No	No	No	Liechtenstein
Yes	Yes	No	Yes	Yes	No	Yes	Yes	No	No	Luxembourg
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Mexico
Yes	Yes	No	No	No	Yes	Yes	No	No	Yes	Monaco
No	No	No	No	No	No	No	No	No	No	Mongol Peoples Republic
No	No	No	No	No	No	No	No	No	No	Nepal
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Netherlands
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	New Zealand
Yes	Yes	Yes	No	No	No	No	Yes	No	No	Nicaragua
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Norway
Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	No	Pakistan
Yes	Yes	No	Yes	Yes ⁷	No	No	Yes	No	No	Panama
Yes	Yes	Yes	No	No	Yes	No	Yes	No	No	Paraguay
Yes	Yes	Yes	Yes	Yes ⁷	No	Yes	Yes	Yes	No	Peru
Yes	Yes	Yes	Yes	Yes ⁷	Yes	Yes	Yes	No	No	Philippines
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Poland
Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Portugal
Yes	Yes	No	No	No	Yes	No	No	Yes	No	Rumania
No	Yes	No	No	No	No	No	No	No	No	San Marino
Yes	Yes	No	No	No	Yes	Yes	Yes	No	No	Saudi Arabia
No	Yes	Yes ⁶	No	No	No	No	No	Yes	Yes	Spain
Yes	Yes	Yes	Yes	No	Yes	No	No	Yes	Yes	Sweden
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Switzerland
Yes	Yes	No	Yes	No	Yes	Yes	Yes	No	No	Syria
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Thailand

TABLE I—NATIONS—

	Approximate Date of Acquiring Present National Status	Signatory to Pact of Paris 1928 for Renunciation of War	PARTICIPATION IN INTER								
			Political and Judicial					Economic and Financial			
			United Nations	International Court of Justice		Permanent Court of Arbitration	Organization of American States	International Trade Organization (Signatories) ¹	International Bank for Reconstruction and Development	International Monetary Fund	International Union for Protection of Industrial Property
				Party to Statute	Subject to Compulsory Jurisdiction Under Art. 36 ²						
Turkey	Fourteenth Century	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes
Ukrainian SSR	1944	No	Yes	Yes	No	No	No	No	No	No	No
Union of South Africa	1919	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes
Union of Soviet Socialist Republics	1922	Yes	Yes	Yes	No	No	No	No	No	No	No
United Kingdom of Great Britain and Northern Ireland	Ninth Century	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
United States of America	1776	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Uruguay	1825	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Vatican City	1829	No	No	No	No	No	No	No	No	No	No
Venezuela	1830	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No
Yemen	1918	No	Yes	Yes	No	No	No	No	No	No	No
Yugoslavia	1918	Yes	Yes	Yes	No	Yes	No	No	Yes	Yes	Yes

¹ This list of International Organizations in which various nations participate is not all-inclusive. Actually there are over four hundred of them. Three hundred and nineteen were described by the Department of State in 1946 as "Agencies in the work of which the United States has participated during the past ten years or so, those with which it is currently associated and those with which it is likely to be concerned through the responsibilities arising from wider international contacts in world affairs." In addition there are now more than sixty others of which the United States is not a member. See *International Agencies in which the United States Participates*, Department of State Publication 2689, U. S. Govt. Printing Office, 1946.

² In many cases the acceptance of "compulsory jurisdiction" under Art. 36 is for limited periods and with various reservations and conditions. In addition to the "compulsory jurisdiction" provided for in Art. 36 of the Court's Statute, there are provisions in a number of multipartite treaties and other international documents accepting jurisdiction of the Court with respect to disputes arising under those documents; as for example the constitutions of certain of the Specialized Agencies of the United Nations and various trusteeship agreements. See *Yearbook of International Court of Justice*, 1947-48, pp. 33-40.

INTERNATIONAL STATUS (Continued)

NATIONAL ORGANIZATIONS¹

Transport and Communications			Social and Health			Educational, Scientific and Cultural				
<i>International Telecommunications Union</i>	<i>Universal Postal Union</i>	<i>International Civil Aviation Organization</i>	<i>International Labor Organization</i>	<i>International Refugee Organization</i>	<i>World Health Organization</i>	<i>United Nations Educational, Scientific and Cultural Organization</i>	<i>Food and Agricultural Organization of the United Nations</i>	<i>International Bureau of Weights and Measures</i>	<i>International Hydrographic Bureau</i>	
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Turkey
Yes	Yes	No	No	No	No	No	No	No	No	Ukrainian S.S.R.
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	Union of South Africa
Yes	Yes	No	No	No	No	No	No	Yes	No	Union of Soviet Socialist Republics
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	United Kingdom of Great Britain and Northern Ireland
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	United States of America
Yes	Yes	No	Yes	No	No	Yes	Yes	Yes	Yes	Uruguay
Yes	Yes	No	No	No	No	No	No	No	No	Vatican City
Yes	Yes	Yes	Yes	Yes ²	Yes	Yes	Yes	No	No	Venezuela
Yes	Yes	No	No	No	No	No	No	No	No	Yemen
Yes	Yes	No	Yes	No	Yes	No	Yes	Yes	No	Yugoslavia

¹ Germany and Japan, under the surrender instruments of May 8 and September 2, 1945 respectively, were denied temporarily the right of representation in international organizations.

² Austria-Hungary ratified the Conventions of 1899 and 1907 but Austria as a successor state took no affirmative action with regard to either Convention.

³ For provisions respecting effective date of the Charter of the International Trade Organization see Art. 103 thereof.

⁴ On May 13, 1947 the ICAO Assembly voted to expel Spain; this subject to ratification by two thirds of the member states of ICAO.

⁵ Signed but not ratified.

TABLE II
FORM OF GOVERNMENT

	<i>Whether Written Constitution</i>	<i>Federal or Unitary</i>	<i>Type</i>
Afghanistan	Yes, Oct. 31, 1931	Unitary (See Art. 2)	Kingdom (Art. 2)
Albania	Yes, March 15, 1946	Unitary	Peoples Republic (Art. 1)
Andorra	Yes, May 31, 1866	Unitary	Republic
Argentina	Yes, March 16, 1949	Federal (Art. 1)	Republic (Art. 1)
Australia	Yes, Act of British Parliament, July 9, 1900, with Amendments	Federal (Arts. 1, 63-64, 71, 79)	Commonwealth (Art. 1)
Austria	No ¹	Military Controls	Republic prior to World War II
Belgium	Yes, Feb. 7, 1831	Unitary	Kingdom
Bhutan	No	Unitary	Kingdom
Bolivia	Yes, Nov. 23, 1945	Unitary	Republic (Art. 1)
Brazil	Yes, Sept. 24, 1946	Federal (Art. 1)	Republic (Art. 1)
Bulgaria	Yes, Dec. 4, 1947	Unitary	Peoples Republic (Art. 1)
Burma	Yes, Sept. 24, 1947	Federal (Art. 2)	Republic (Art. 1)
Byelorussian SSR	Yes, Feb. 19, 1937	Unitary	Soviet Socialist Republic (Art. 1)
Canada	Yes, British North America Act of 1867 and amendments prior to Statute of Westminster	Federal (B.N.A. Act, Preamble)	Dominion (Preamble B.N.A. Act, also Sec. 3)
Ceylon	Yes ¹ , Dec. 10, 1947	Unitary	Dominion (Ceylon (Const. Order in Council 1946, Preamble)
Chile	Yes, Sept. 18, 1925	Unitary (Art. 1)	Republic (Art. 1)
China	Yes, Dec. 25, 1947	Unitary	Democratic Republic (Art. 1)
Colombia	Yes, Aug. 4, 1886	Unitary (Art. 1)	Republic (Art. 1)
Costa Rica	Yes, Dec. 7, 1871, with Amendments. Partially suspended in 1948	Unitary	Republic (Art. 1)
Cuba	Yes, July 5, 1940	Unitary (Art. 1)	Democratic Republic (Art. 1)
Czechoslovakia	Yes, May 9, 1948	"Unitary State of Two Slav Nations" (Art. II)	Peoples Democratic Republic (Art. I)
Denmark	Yes, June 5, 1915	Unitary	Limited Monarchy (Art. 1)
Dominican Republic	Yes, Jan. 10, 1942	Unitary	Republic (Art. 2)
Ecuador	Yes, Dec. 31, 1946	Unitary (Art. 2)	Republic (Art. 2)
Egypt	Yes, April 30, 1923	Unitary	Hereditary Monarchy with "A Repre- sentative Form" (Art. 1)

TABLE II—Continued
FORM OF GOVERNMENT

	<i>Whether Written Constitution</i>	<i>Federal or Unitary</i>	<i>Type</i>
El Salvador	Yes, Aug. 13, 1886, re-adopted Nov. 29, 1945, with Amendments	Unitary	Republican, Democratic, Representative, and Alternative (Art. 4)
Ethiopia	Yes, July 16, 1931	Unitary (Arts. 2, 6)	Empire (Art. 6)
Finland	Yes, Form of Government Act, July 17, 1919, also Parliament Act, January 13, 1928 and certain other Acts	Unitary	Republic (Art. 1 of 1928 Act)
France	Yes, Sept. 28, 1946	Unitary (Art. 1)	Republic (Art. 1)
Germany	See note 3	See note 3	See note 3
Greece	Yes, June 1, 1911	Unitary	Kingdom
Guatemala	Yes, March 11, 1945	Unitary	"Democratic-Representative" Republic (Art. 1)
Haiti	Yes, Nov. 22, 1946	Unitary (Art. 1)	"One, Indivisible, Free, Sovereign Independent, Democratic, and Social" Republic (Art. 1)
Honduras	Yes, March 28, 1936, as amended	Unitary	A "Republican, Democratic, and Representative" Government (Art. 86)
Hungary	Yes, January 31, 1946	Unitary	Republic (Art. 2)
Iceland	Yes, June 17, 1944	Unitary	Republic (Art. 1)
India	See footnote 4	Federal 4	Dominion 4
Iran	Yes, Constitution of Dec. 30, 1906 Constitutional Law of Oct. 8, 1907	Unitary	Constitutional Monarchy (Const. Law Art. 36)
Iraq	Yes, March 21, 1925, as amended	Unitary	"Hereditary Monarchy and Its Form is Representative" (Art. 2)
Ireland	Yes, Dec. 29, 1937	Unitary	"Democratic State" (Republic) (Art. 5)
Israel	See footnote 5	Unitary 5	Republic 5
Italy	Yes, January 1, 1948	Unitary (Art. 5)	"Democratic Republic Based on Labor" (Art. 1)
Japan	Yes, Nov. 3, 1946	Unitary	Empire (Art. 1)
Jordan	Yes, Dec. 7, 1946	Unitary	Hereditary Monarchy (Art. 2)
Korea	Yes, July 12, 1948	Unitary	"Democratic Republic" (Art. 1)
Lebanon	Yes, May 23, 1926, as amended	Unitary (Art. 1)	Republic (Art. 4)
Liberia	Yes, July 26, 1847	Unitary	Republic (Preamble)
Liechtenstein	Yes, Oct. 5, 1921	Unitary	"A Constitutional, Hereditary Monarchy upon Democratic and Parliamentary Basis" (Art. 3)

TABLE II — Continued
FORM OF GOVERNMENT

	<i>Whether Written Constitution</i>	<i>Federal or Unitary</i>	<i>Type</i>
Luxembourg	Yes, Oct. 17, 1868, as amended	Unitary	Grand Duchy (Art. 1)
Mexico	Yes, Jan. 31, 1917	Federal (Art. 40)	Republic (Art. 40)
Monaco	Yes, Jan. 5, 1911, as amended	Unitary	Principality (Art. 1)
Mongol Peoples Republic	Yes, June 30, 1940	Unitary	Peoples Republic (Art. 1)
Nepal	Yes, "Government of Nepal Act 2004 Sambat" effective April 1, 1948	Unitary	Kingdom (Art. 2)
Netherlands	Yes, Aug. 24, 1815, as amended, re- issued January 22, 1947	Unitary	Kingdom (Art. 1)
New Zealand	Yes ² , June 30, 1852	Unitary	Dominion (Statute of Westminster — Preamble)
Nicaragua	Yes, Jan. 21, 1948	Unitary (Art. 1)	Republic (Art. 5)
Norway	Yes, May 17, 1814	Unitary	"Limited and Hereditary Monarchy" (Art. 1)
Pakistan	No (under consideration)	Unitary	Dominion
Panama	Yes, March 1, 1946	Unitary (Art. 1)	Republic (Art. 1)
Paraguay	Yes, July 10, 1940	Unitary	Republic (Art. 1)
Peru	Yes, April 9, 1933, as amended	Unitary (Art. 2)	Republic (Art. 1, 2)
Philippines	Yes, Feb. 8, 1935, as amended	Unitary	Republican State (Art. II, Sec. 1)
Poland	Yes, Constitutional Act of Feb. 19, 1947 (Provisional)	Unitary	Republic (Art. 1)
Portugal	Yes, April 11, 1933	Unitary (Art. 5)	Corporative Republic (Art. 5)
Rumania	Yes, April 13, 1948	Unitary (Art. 1)	Peoples Republic (Art. 1)
San Marino	Yes, Electoral Law of Nov. 18, 1926	Unitary	Republic (Art. 1)
Saudi Arabia	Yes, Constitutional Documents of 1926, 1927, 1931, 1932	Unitary (Art. 1)	"Monarchical, Constitutional and Moslem" (Art. 2)
Spain	Yes, Charter of 1945 and Acts of 1942, 1945, June 7, 1947, and July 6, 1947	Unitary	"Catholic, Social, Representative State ... a Kingdom" (Act of June 7, 1947, Art. 1)
Sweden	Yes, June 6, 1809 as amended, and Riksdag Law June 22, 1836	Unitary	Hereditary Monarchy (Art. 1)
Switzerland	Yes, May 29, 1874, as amended	Federal (Art. 1)	Confederation (Preamble, Art. 1, etc.)
Syria	Yes, May 14, 1930, as amended	Unitary (Art. 2)	Parliamentary Republic (Art. 3)
Thailand	Yes, Nov. 9, 1947	Unitary (Sec. 1)	Kingdom (Sec. 1)

TABLE II—Continued
FORM OF GOVERNMENT

	<i>Whether Written Constitution</i>	<i>Federal Unitary</i>	<i>Type</i>
Turkey	Yes, January 10, 1945	Unitary	"A Republic... Republican, Nationalist, Populist, Étatist, Secular and Revolutionary" (Art. 1, 2)
Ukrainian SSR	Yes, January 30, 1937, as amended	Unitary	Soviet Socialist Republic (Art. 1)
Union of South Africa	Yes, South Africa Act, Sept. 20, 1909, British Parliament	Federal (Art. 4)	Dominion (Art. 4)
Union of Soviet Socialist Republics	Yes, Dec. 5, 1936	Federal (Art. 13)	Soviet Socialist Republic (Art. 1)
United Kingdom of Great Britain and Northern Ireland	No	Unitary	Kingdom
United States of America	Yes, Sept. 17, 1787, as amended	Federal	Republic
Uruguay	Yes, March 24, 1934	Unitary	Democratic Republican (Art. 72)
Vatican City	Yes, Constitutional Laws of June 7, 1929	Unitary	Monarchical-Sacerdotal State
Venezuela	Yes, July 5, 1947 (Const. of 1936 as amended in 1945 being applied by military junta)	Federal (Art. 86 Const. 1947; Art. 13 Const. 1936)	Republic (Art. 86 Const. 1947; Art. 13 Const. 1936)
Yemen	No	Unitary	Kingdom
Yugoslavia	Yes, January 30, 1946	Federal (Art. 1)	Peoples Republic (Art. 1)

¹ Under Allied Military Control at time of going to press, but prior constitution of 1920 partially in force.

² Several constitutional documents.

³ Germany was still under military occupation at the time of our going to press. It was nominally a republic prior to World War II. Draft constitutions were prepared in both the Eastern and Western Sectors in 1949. The "Bonn constitution" for Western Germany provides in Article 20 that the "Federal Republic of Germany is a democratic and social federal state". See annex at end of Volume III, and also the Summary under Germany, Vol. II, p. 29.

⁴ A new constitution for India was in process of preparation at the time of our going to press. It provides for a "union of states". See summary in Vol. II, p. 192 under India for status and see appendix at end of Volume III for text of draft constitution.

⁵ "Small constitution" adopted February 12, 1949, pending consideration of detailed instrument. See appendix at end of Volume III for draft constitution submitted to Constituent Assembly.

TABLE III
SOURCE OF SOVEREIGN POWER

Afghanistan	The king and the people (Art. 5)
Albania	The people (Art. 1)
Andorra	The people
Argentina	The people (Preamble)
Australia	The crown and the people
Austria	The people ¹
Belgium	The people (Art. 25)
Bhutan	The king
Bolivia	The people (Art. 2)
Brazil	The people (Art. 1)
Bulgaria	The people (Art. 2)
Burma	The people (Art. 3)
Byelorussian SSR	"Workers in cities and villages" (Art. 3)
Canada	The crown and the people
Ceylon	The crown and the people
Chile	The nation (Art. 2)
China	"The whole body of citizens" (Art. 2)
Colombia	The nation (Art. 2)
Costa Rica	The nation (Art. 2)
Cuba	The people (Art. 2)
Czechoslovakia	The people (Art. 1)
Denmark	The king, subject to the constitution (Art. 11)
Dominican Republic	The people (Art. 12)
Ecuador	The people (Preamble)

Egypt	The nation (Art. 28)
El Salvador	The people (Art. 1)
Ethiopia	The emperor (Art. 1)
Finland	The people (Art. 2)
France	The people (Art. 3)
Germany	The people ²
Greece	The nation (Art. 21)
Guatemala	The people (Art. 2)
Haiti	"The whole body of citizens" (Art. 34)
Honduras	The people (Art. 2)
Hungary	The people (Art. 1)
Iceland	Impliedly in the people
India	The people ³
Iran	Conferred on the sovereign by the people (Const. Law of 1907, arts. 26, 35)
Iraq	Confided to the king by the people (Art. 19)
Ireland	Under God from the people (Art. 6)
Israel	The people ⁴
Italy	The people (Art. 1)
Japan	The people (Preamble)
Jordan	Impliedly in the king
Korea	The people (Art. 2)
Lebanon	Impliedly in the people
Liberia	The people (Art. 1)
Liechtenstein	The prince by the grace of God (Preamble)

TABLE III—Continued
SOURCE OF SOVEREIGN POWER

Luxembourg	The nation (Art. 32)	Sweden	Promulgated by signatory "estates, counts, barons, bishops, nobles, clergy, burghers and common peasants" (Preamble)
Mexico	The people (Art. 39)	Switzerland	The cantons and peoples (Arts. 1, 3)
Monaco	The prince has "high authority" (Art. 15)	Syria	The nation (Art. 29)
Mongol Peoples Republic	"Urban and rural workers" (Arts. 2, 3)	Thailand	The people (Sec. 2)
Nepal	The Maharajadhirajas (Preamble)	Turkey	The nation (Art. 3)
Netherlands	Impliedly in the crown and people	Ukrainian SSR.	"Workers in cities and villages" (Art. 3)
New Zealand	The crown and the people	Union of South Africa	"Almighty God" (Art. 1)
Nicaragua	The people (Art. 8)	Union of Soviet Socialist Republics	"The working people of town and country" (Art. 3)
Norway	Impliedly in the crown and people	United Kingdom of Great Britain and Northern Ireland	The crown and the people
Pakistan	Note 5	United States of America	The people (Preamble)
Panama	The people (Art. 2)	Uruguay	The nation (Arts. 4, 68)
Paraguay	The people (Art. 2)	Vatican City	Sovereign pontiff (Constitutional Law 1, Art. 1)
Peru	The people (Art. 1)	Venezuela	The people (Art. 70 of 1947 Const.; Art. 41 of 1936 Const.)
Philippines	The people (Art. II)	Yemen	The king
Poland	The people (Art. 1)	Yugoslavia	The people (Art. 6)
Portugal	The nation (Art. 71)		
Rumania	The people (Art. 3)		
San Marino	Impliedly in the people		
Saudi Arabia	Impliedly in the king subject to re- ligious law		
Spain	The people *		

* At present under military administration. The former Constitution of Austria declared the source to be the people (Const. 1920, Art. 1).

* At present under military administration. The Weimar Constitution of 1920 (Art. 1) declared the source of sovereign power to be in the people. Both the "Boem Constitution" and the Eastern German document refer to the people. See Appendix at end of Volume III.

* The preamble of the new proposed Constitution (not completely adopted at time of our going to press) refers to the people as the source of sovereign power. See Appendix for text.

* Constitution in process of adoption at time of our going to press. See draft in Appendix.

* Constitution not yet adopted at time of going to press.

* See Summary, Vol. III, p. 75.

TABLE IV—RIGHTS OF THE PEOPLE—

	<i>Assembly and Association</i>	<i>Conscience and Religion</i>	<i>Correspondence and Domicile— Inviolability</i>	<i>Education</i>	<i>Equality</i>	<i>Health, Motherhood</i>	<i>Individual Liberty and Fair Legal Processes</i>
Afghanistan		Arts. 1, 9, 10	Arts. 16, 109	Arts. 20, 22	Arts. 3, 13		Arts. 11, 12, 19
Albania	Art. 18	Art. 16	Arts. 20, 21	Arts. 26, 28	Arts. 12, 13, 15	Art. 15	Arts. 19, 31
Andorra ¹	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1
Argentina	Art. 26	Art. 26	Art. 29	Arts. 26, 137	Arts. 27, 28	Art. 37	Arts. 26, 29
Australia ²	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2
Austria ³	See Note 3	See Note 3	See Note 3	See Note 3	See Note 3	See Note 3	See Note 3
Belgium	Arts. 19, 20	Arts. 14, 15	Arts. 10, 22	Art. 17	Art. 6		Arts. 7, 8, 9
Bhutan ⁴	See Note 4	See Note 4	See Note 4	See Note 4	See Note 4	See Note 4	See Note 4
Bolivia	Art. 6	Art. 3	Arts. 15, 16	Arts. 6, 154-164		Arts. 103, 123, 125, 131	Arts. 5, 7-14, 25, 35
Brasil	Art. 141	Art. 141	Art. 141	Arts. 166, 167-168, 174	Art. 141	Arts. 157, 164	Art. 141
Bulgaria	Arts. 87, 88	Art. 78	Arts. 85, 86	Arts. 77, 79	Art. 71	Arts. 72, 81	Art. 82
Burma	Art. 17	Art. 20	Art. 16		Art. 13		Arts. 18, 19, 25, 27
Byelorussian S.S.R.	Arts. 100, 101	Art. 99	Art. 103	Art. 96	Arts. 97, 98	Arts. 95, 97	Arts. 86, 87, 102
Canada ⁵	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2
Ceylon ²	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2
Chile	Art. 10 (4) (5)	Art. 10 (2)	Art. 10 (12) (13)	Art. 10 (7)	Art. 10 (1)	Art. 10 (14)	Arts. 10-20
China	Art. 14	Art. 13	Arts. 10, 12	Arts. 11, 158-167	Arts. 5, 7	Arts. 156, 157	Arts. 8, 9, 22-24
Colombia	Arts. 44, 64	Art. 53	Arts. 23, 38	Art. 41			Arts. 23-28
Costa Rica	Art. 33	Art. 66	Arts. 30, 31, 32	Arts. 67, 68	Art. 25	Art. 51	Arts. 24, 27, 38-45, 82
Cuba	Arts. 37, 69	Art. 35	Arts. 32, 34	Arts. 48-51 53, 54	Art. 20	Arts. 43, 68	Arts. 21-30
Czechoslovakia	Secs. 24, 25	Secs. 15-17	Secs. 4, 5, 6	Secs. 12-14	Sec. 1	Sec. 10, 26, 29	Secs. 2, 3
Denmark	Arts. 85, 86	Arts. 74-77	Art. 79	Art. 83	Art. 77		Art. 78
Dominican Republic	Arts. 6, 103	Art. 6	Art. 6	Art. 6		Art. 6	Art. 6
Ecuador	Art. 187	Arts. 168, 187	Art. 187	Arts. 171, 173	Arts. 168, 169	Arts. 185, 162	Arts. 187, 188
Egypt	Arts. 20, 21	Arts. 12, 13	Arts. 8, 11	Arts. 17-19	Art. 3		Arts. 4-7, 10
El Salvador	Arts. 14, 35	Art. 12	Arts. 21, 30	Art. 33	Art. 23		Arts. 10, 15, 19-22, 24-28
Ethiopia			Arts. 25, 26				Arts. 23, 24

Constitutional Guarantees of Individual Rights

<i>Labor</i>	<i>Movement Within and To and From the Nation</i>	<i>Non-Retro- activity of Law</i>	<i>Petition</i>	<i>Property</i>	<i>Social Security</i>	<i>Speech and Press</i>	
				Arts. 15, 17		Art. 23	Afghanistan
Arts. 6, 11, 22			Arts. 29, 30	Arts. 9, 10	Arts. 6, 11, 24	Art. 18	Albania
See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	Andorra ¹
Art. 37	Art. 26	Art. 29	Art. 26	Art. 38	Art. 37	Art. 26	Argentina
See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	Australia ²
See Note 3	See Note 3	See Note 3	See Note 3	See Note 3	See Note 3	See Note 3	Austria ²
			Art. 21	Arts. 11, 12		Arts. 14, 18	Belgium
See Note 4	See Note 4	See Note 4	See Note 4	See Note 4	See Note 4	See Note 4	Bhutan ⁴
Arts. 6, 122-129	Art. 6	Art. 31	Art. 6	Arts. 15, 17	Arts. 107, 122, 123, 125, 130	Arts. 6, 35	Bolivia
Arts. 145, 148, 157, 159		Art. 141		Arts. 141, 147	Arts. 145, 157, 164	Art. 141	Brazil
Arts. 72-74			Art. 89		Arts. 72, 75	Art. 88	Bulgaria
	Art. 17	Art. 24		Arts. 16, 23		Art. 17	Burma
Arts. 93, 94, 101				Arts. 7, 9, 10	Arts. 93-95	Art. 100	Byelorussian S.S.R.
See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	Canada ²
See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	Ceylon ²
Art. 10 (14)	Art. 10 (15)	Art. 11	Art. 10 (6)	Art. 10 (10)	Art. 10 (14)	Art. 10 (3)	Chile
Arts. 153, 154	Art. 10		Art. 16	Arts. 15, 143, 145	Arts. 152-157		China
Arts. 17, 39		Arts. 26, 28	Art. 45	Art. 30	Art. 19	Art. 42	Colombia
Arts. 48, 52-55, 57, 62, 69	Art. 28	Art. 43	Art. 35	Art. 29	Arts. 51, 53, 63, 59	Art. 37	Costa Rica
Arts. 60-64, 66, 67, 69, 71, 72, 84	Art. 30	Arts. 21, 22	Art. 36	Arts. 24, 87	Arts. 45, 60, 65, 79	Art. 33	Cuba
Secs. 25-28	Sec. 7		Secs. 23	Secs. 8, 9	Secs. 27, 29	Secs. 18, 21	Czechoslovakia
				Art. 80	Art. 82	Art. 84	Denmark
Art. 6	Art. 6			Art. 6	Art. 6	Art. 6	Dominican Republic
Arts. 170, 185, 186, 187	Art. 187		Art. 187, 188	Art. 188	Arts. 174, 185, 188	Art. 187	Ecuador
	Art. 7	Art. 6	Art. 22	Arts. 9, 10		Arts. 14, 15	Egypt
	Art. 13	Art. 24	Art. 16	Arts. 5, 9, 20, 31		Art. 29	El Salvador
	Art. 22		Art. 28	Art. 27			Ethiopia

TABLE IV—Continued—RIGHTS OF THE PEOPLE—

	<i>Assembly and Association</i>	<i>Conscience and Religion</i>	<i>Correspondence and Domicile— Inviolability</i>	<i>Education</i>	<i>Equality</i>	<i>Health, Motherhood</i>	<i>Individual Liberty and Fair Legal Processes</i>
Finland	Art. 10	Arts. 8, 9	Arts. 11, 12	Arts. 77-81	Arts. 5, 9		Arts. 6, 13
France		Preamble; Decl. ^s 10		Preamble	Preamble; Decl. ^s 1, 4, 6	Preamble	Decl. 2, 7
Germany *	See Note 3	See Note 3	See Note 3	See Note 3	See Note 3	See Note 3	See Note 3
Greece	Arts. 10, 11	Art. 1	Arts. 12, 20	Art. 16	Art. 3		Arts. 4-8, 13, 18
Guatemala	Arts. 31, 32	Art. 29	Arts. 35, 37	Arts. 15, 80, 81, 84	Arts. 21, 23	Arts. 53, 72	Arts. 23, 40-52
Haiti	Arts. 25, 26	Art. 22	Arts. 14, 28	Art. 23	Art. 11		Arts. 5, 12-16
Honduras	Art. 61	Art. 57	Arts. 48, 50, 51, 52	Art. 60	Arts. 30, 69	Arts. 195, 197	Arts. 30-45, 47
Hungary	Preamble	Preamble		Preamble			Preamble
Iceland	Arts. 73, 74	Arts. 63, 64	Art. 66	Art. 71			Art. 65
India * and *	See Note 6	See Note 6	See Note 6	See Note 6	See Note 6	See Note 6	See Note 6
Iran	Const. Law Art. 21		Const. Law Arts. 13, 22, 23	Const. Law Arts. 18, 19	Const. Law Art. 8		Const. Law Art. 6, 9-12, 14
Iraq	Art. 12	Art. 13, Decl. ^y II, 15	Arts. 8, 15	Art. 16, Decl. ^y I, 8	Arts. 6, 18, Decl. ^y I, 2		Arts. 7, 9 Decl. ^y I, 2, 4
Ireland	Art. 40	Arts. 40, 44	Art. 40	Art. 42	Art. 40	Arts. 41, 45	Art. 40
Israel*	See Note 8	See Note 8	See Note 8	See Note 8	See Note 8	See Note 8	See Note 8
Italy	Arts. 17, 18, 39, 49	Arts. 19, 20	Arts. 14, 15	Art. 34	Art. 3	Art. 31	Arts. 13, 22, 24, 25, 26, 27, 28
Japan	Art. 21	Arts. 19, 20	Arts. 21, 35	Arts. 23, 26	Art. 14	Art. 25	Arts. 13, 18, 31-40
Jordan	Art. 18	Art. 16	Arts. 10, 20	Art. 21	Art. 6		Arts. 7-9, 13
Korea	Art. 13	Art. 12	Art. 11	Art. 16	Art. 8		Arts. 9, 24
Lebanon	Art. 13	Art. 9	Art. 14	Art. 10	Art. 7		Art. 8
Liberia	Art. I, 5	Art. I, 3		Art. V, 15	Art. I, 1		Art. I, 1, 4, 6-10, 20
Liechtenstein	Art. 41	Art. 37	Art. 32	Arts. 15, 16, 17	Arts. 31, 39	Art. 18	Arts. 32, 33
Luxembourg	Arts. 25, 26	Art. 19	Arts. 15, 28	Art. 23	Art. 11		Arts. 12-14, 18
Mexico	Art. 9	Arts. 3, 24, 130	Arts. 16, 25	Art. 3		Art. 123	Arts. 2, 5, 16-23
Monaco	Art. 12	Art. 10	Art. 8	Art. 77	Art. 5		Arts. 6, 7
Mongol Peoples Republic	Arts. 82, 85	Art. 81	Art. 87		Arts. 79, 80	Art. 80	Art. 86

Constitutional Guarantees of Individual Rights

<i>Labor</i>	<i>Movement Within and To and From the Nation</i>	<i>Non-Retro- activity of Law</i>	<i>Petition</i>	<i>Property</i>	<i>Social Security</i>	<i>Speech and Press</i>	
Art. 6	Art. 7			Art. 6		Art. 10	Finland
Preamble		Decl. ^s 8		Decl. ^s 2, 17	Preamble	Decl. ^s 11	France
See Note 3	See Note 3	See Note 3	See Note 3	See Note 3	See Note 3	See Note 3	Germany *
		Art. 7	Art. 9	Arts. 17, 18		Art. 14	Greece
Arts. 55, 56, 57, 58, 59, 61, 64, 65, 97	Art. 25	Art. 49	Art. 30	Arts. 23, 92	Arts. 22, 57, 58, 63, 65, 67, 70, 82, 88	Art. 36	Guatemala
Arts. 18, 19		Art. 15	Art. 27	Arts. 10, 17		Art. 21	Haiti
Arts. 191, 193, 194	Art. 67	Art. 54	Art. 66	Arts. 30, 64, 73-77		Arts. 46, 59	Honduras
Preamble						Preamble	Hungary
Art. 69				Art. 67	Art. 70	Art. 72	Iceland
See Note 6	See Note 6	See Note 6	See Note 6	See Note 6	See Note 6	See Note 6	India * and *
	Const. Law Art. 14		Art. 32	Const. Law Arts. 6, 9, 15, 16, 17		Const. Law Art. 20	Iran
	Art. 7		Art. 14	Art. 10		Art. 12	Iraq ⁷
Art. 40				Art. 43	Art. 45	Art. 40	Ireland
See Note 8	See Note 8	See Note 8	See Note 8	See Note 8	See Note 8	See Note 8	Israel *
Arts. 35-40	Art. 16	Art. 25	Art. 50	Art. 42	Arts. 31, 38	Art. 21	Italy
Arts. 22, 27, 28	Art. 22	Art. 39	Art. 16	Art. 29	Art. 25	Art. 21	Japan
			Art. 19	Arts. 11, 12		Art. 17	Jordan
Arts. 17, 18	Art. 10	Art. 23	Arts. 21, 27	Art. 15	Art. 19	Art. 13	Korea
				Art. 15		Art. 13	Lebanon
		Art. I, 10	Art. I, 5	Art. I, 8, 13		Art. I, 15	Liberia
Art. 19	Art. 28		Art. 42	Arts. 23, 34, 35	Arts. 20, 25, 26	Art. 40	Liechtenstein
			Art. 27	Arts. 16, 17		Art. 24	Luxembourg
Arts. 4, 5, 21, 28, 123	Art. 11	Art. 14	Art. 8	Arts. 14, 27	Art. 123	Arts. 6, 7, 130	Mexico
			Art. 13	Art. 9		Art. 10	Monaco
Arts. 76, 82	Art. 84		Art. 83	Art. 6	Art. 78	Art. 85	Mongol Peoples Republic

TABLE IV—Continued—RIGHTS OF THE PEOPLE—

	<i>Assembly and Association</i>	<i>Conscience and Religion</i>	<i>Correspondence and Domicile— Inviolability</i>	<i>Education</i>	<i>Equality</i>	<i>Health, Motherhood</i>	<i>Individual Liberty and Fair Legal Processes</i>
Nepal	Art. 4	Art. 4		Arts. 4, 60	Art. 4		Art. 4
Netherlands	Art. 9	Art. 174	Arts. 165, 166	Art. 200	Arts. 4, 176		Arts. 163, 164
New Zealand *	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2
Nicaragua	Arts. 81, 99	Art. 93	Arts. 54, 110	Arts. 86, 87	Art. 109	Arts. 67, 68	Arts. 34-49
Norway			Art. 102				Arts. 96, 99
Pakistan *	See Note 6	See Note 6	See Note 6	See Note 6	See Note 6	See Note 6	See Note 6
Panama	Arts. 39, 40	Arts. 35, 36, 37	Art. 26, 29	Arts. 61, 78-81, 89, 91	Art. 21, 80	Arts. 54, 71, 92, 93	Arts. 22-25, 30-34
Paraguay	Art. 19	Arts. 3, 19	Art. 27	Arts. 10, 19	Art. 33	Art. 11	Arts. 19, 25-29, 33
Peru	Arts. 62, 27	Art. 59	Arts. 61, 66	Arts. 72, 75, 80		Arts. 50, 51	Arts. 55-58, 68, 69
Philippines	Art. III, Secs. 6, 8	Art. III, Sec. 7	Art. III, Secs. 3, 5	Art. XIV, Sec. 5			Art. III, Secs. 1, 12, 14-21
Poland	Decl. (5)	Decl. (3)	Decl. (7), (8)	Decl. (12)	Decl. (1)	Decl. (13) (14)	Decl. (2) (9)
Portugal	Art. 8	Arts. 8, 45	Art. 8	Arts. 8, 42, 43, 44	Art. 5	Arts. 14, 40	Art. 8
Rumania	Arts. 31, 32	Art. 27	Arts. 29, 33	Art. 22	Arts. 16, 21	Arts. 25, 26	Arts. 28, 30
San Marino	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1
Saudi Arabia				Art. 25			
Spain	Charter Art. 16	Charter Art. 6	Charter Arts. 13, 15	Charter Art. 5	Charter Art. 3		Charter Arts. 17, 18
Sweden		Art. 16	Art. 16				Art. 16
Switzerland	Art. 56	Arts. 27, 49-52	Art. 36	Art. 27	Art. 4	Arts. 34, 69	Arts. 58-61, 65, 69
Syria	Art. 25	Art. 15	Arts. 12, 18	Arts. 19, 21, 22	Art. 6		Arts. 7-11
Thailand	Secs. 37, 38	Sec. 23	Secs. 33, 40	Secs. 32, 62-65	Sec. 2	Sec. 72	Secs. 31, 32
Turkey	Arts. 70, 79	Arts. 70, 75, 88	Arts. 71, 76, 81	Art. 80, 87	Art. 69		Arts. 68, 70, 72, 73, 83
Ukrainian S.S.R.	Arts. 105, 106	Art. 104	Art. 108	Art. 101	Arts. 102, 103	Arts. 99, 100	Art. 107
Union of South Africa *	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2
Union of Soviet Socialist Republics	Arts. 125, 126	Art. 124	Art. 123	Art. 121	Art. 123	Arts. 120, 122	Arts. 110, 111, 127

Constitutional Guarantees of Individual Rights

<i>Labor</i>	<i>Movement Within and To and From the Nation</i>	<i>Non-Retro- activity of Law</i>	<i>Petition</i>	<i>Property</i>	<i>Social Security</i>	<i>Speech and Press</i>	
				Art. 4		Art. 4	Nepal
			Art. 8	Arts. 4, 158, 159, 160, 161	Art. 201	Art. 7	Netherlands
See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	New Zealand *
Arts. 82, 83	Art. 55	Art. 44	Art. 101	Arts. 53-66	Arts. 83, 85	Arts. 96, 97	Nicaragua
		Art. 97		Arts. 104, 105		Art. 100	Norway
See Note 6	See Note 6	See Note 6	See Note 6	See Note 6	See Note 6	See Note 6	Pakistan *
Arts. 63-76	Art. 27	Arts. 31, 44	Art. 42	Arts. 30, 45-47, 49	Art. 93	Art. 38	Panama
Arts. 14, 19		Art. 26	Art. 19	Arts. 21, 25	Art. 14	Arts. 19, 31	Paraguay
Arts. 42-46	Art. 67	Arts. 25, 57	Art. 60	Arts. 29, 30, 38, 47, 49, 57	Art. 48	Arts. 63, 65	Peru
Art. XIV, Sec. 6	Art. III, Sec. 4	Art. III, Sec. 11	Art. III, Sec. 8	Art. III, Sec. 2 Art. XIII Secs. 1-3		Art. III, Sec. 8	Philippines
Decl. (10)			Decl. (9)	Decl. (2)	Decl. (11)	Decl. (5)	Poland
Arts. 8, 31, 38			Art. 8	Art. 8	Art. 14	Art. 8	Portugal
Arts. 19, 20, 21			Art. 34	Arts. 8, 9, 10	Art. 12	Art. 31	Rumania
See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	San Marino
							Saudi Arabia
Charter Arts. 24-27	Charter Art. 14	Charter Art. 19	Charter Art. 21	Charter Arts. 30, 32	Charter Art. 9, 28	Charter Art. 12	Spain
	Art. 16			Art. 16		Arts. 85, 86, 108	Sweden
Art. 34	Art. 45		Art. 57		Arts. 34-34D, 48	Art. 55	Switzerland
			Art. 27	Art. 13		Arts. 16, 17	Syria
Secs. 32, 71	Sec. 41	Sec. 29	Sec. 42	Sec. 34		Sec. 35	Thailand
Arts. 70, 79	Arts. 70, 78		Art. 82	Arts. 70, 71, 74		Arts. 70, 77	Turkey
Arts. 98, 99, 100, 106				Arts. 9, 10	Arts. 98, 100, 102	Art. 106	Ukrainian S.S.R.
See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	Union of South Africa *
Arts. 118, 119, 126				Arts. 7, 10	Arts. 118, 119, 120	Art. 125	Union of Soviet Socialist Republics

TABLE IV—Continued—RIGHTS OF THE PEOPLE—

	<i>Assembly and Association</i>	<i>Conscience and Religion</i>	<i>Correspondence and Domicile— Inviolability</i>	<i>Education</i>	<i>Equality</i>	<i>Health, Motherhood</i>	<i>Individual Liberty and Fair Legal Processes</i>
United Kingdom of Great Britain and Northern Ireland ²	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	See Note 2	Great Charter of 1297
United States of America	Amend. Art. I	Art. VI Amend. Art. I	Amend. Art.		Amend. Art. XIV, XV, XIX		Arts. I 9; III 2, 3; Amend- ments Arts. IV, V, VI, VII, VIII, XIII, XIV
Uruguay	Arts. 37, 38	Art. 5	Arts. 11, 27	Arts. 59, 60, 61, 62	Art. 8	Arts. 41, 43	Arts. 7, 12, 15-26, 30
Vatican City				Const. Law, Part 2, Art. 21		Const. Law, Part 2, Art. 20	
Venezuela ³	Arts. 41, 42	Arts. 38-40	Art. 37	Arts. 53-58	Art. 46	Arts. 47, 51, 52	Arts. 29, 30, 31, 32
Yemen ⁴	See Note 4	See Note 4	See Note 4	See Note 4	See Note 4	See Note 4	See Note 4
Yugoslavia	Arts. 20, 27	Art. 25	Arts. 29, 30	Art. 38	Arts. 21, 23, 24	Arts. 24, 36	Arts. 8, 28

¹ No detailed enumeration of human rights in any written constitution.² Individual rights in most of the members of the British Commonwealth of Nations trace their origin to the English Bill of Rights of 1689 and other legislative enactments, and to court decisions. There is no effort to enumerate them in any other single constitutional document.³ Country at present under military occupation. See Summary.⁴ Information not available.

Constitutional Guarantees of Individual Rights

<i>Labor</i>	<i>Movement Within and To and From the Nation</i>	<i>Non-Retro- activity of Law</i>	<i>Petition</i>	<i>Property</i>	<i>Social Security</i>	<i>Speech and Press</i>	
See Note 2	Magna Charta, 1215	See Note 2	Bill of Rights of 1689	Magna Charta, 1215	See Note 2	See Note 2	United Kingdom of Great Britain and Northern Ireland ²
	See Art. IV 2 and Amend. XIV, 1	Art. I, 9, 10	Amend. Art. I	Amend. Art. V		Amend. Art. I	United States of America
Arts. 7, 35, 52, 53, 56	Art. 36		Art. 29	Arts. 7, 31, 32	Arts. 44, 45, 53, 58	Art. 28	Uruguay
	Const. Law, Part 3, Arts. 11, 12						Vatican City
Arts. 61-64	Art. 34		Art. 43	Arts. 65, 67	Arts. 61, 63, 64	Art. 37	Venezuela ³
See Note 4	See Note 4	See Note 4	See Note 4	See Note 4	See Note 4	See Note 4	Yemen ⁴
Arts. 15, 20			Art. 39	Arts. 14, 15, 16, 18, 19	Arts. 20, 35	Art. 27	Yugoslavia

¹ References to "Decl." under France, are to the "Declaration of the Rights of Man and of the Citizen of 26 August 1789."

² Constitution in process of preparation. Not fully effective at time of our going to press. See Summary.

³ References to "Decl." under Iraq are to the "Declaration of 30 May 1932" when mandatory regime terminated.

⁴ Draft Constitution printed in Appendix.

⁵ References are to Constitution of 1947, the progressive features of which are recognized by the present military junta. See Summary.

TABLE V
LEGISLATIVE DEPARTMENT

Bicameral Legislatures								Unicameral Legislatures		
Upper House				Lower House				Name	Method of Selection	Tenure
Name	Method of Selection	Tenure	Name	Method of Selection	Tenure					
Afghanistan	House of Nobles (Art. 87)	Appointed by King (Art. 87)	Not stated	National Council (Shura-i-Milli) (Art. 27)	Elected from provinces and districts, "representatives of all the people" (Arts. 20, 31)	3 years (Art. 31)				
Albania							The People's Convention (Art. 37)	Elected by all citizens, one for every 20,000 people (Art. 40)	4 years (Art. 41)	
Andorra							General Council	Elected by heads of families (Art. 1)	4 years (Art. 8)	
Argentina	Senate (Art. 47)	Two for each province and two for the Capital elected directly by the people (Art. 47)	6 years (Art. 49)	House of Deputies (Art. 42)	Elected directly by the people, one for each 100,000 of inhabitants (Art. 42)	6 years (Art. 44)				
Australia	Senate (Art. 7)	Six from each state (total 36) elected directly by the people (Art. 7)	6 years (Art. 7)	House of Representatives (Art. 24)	Minimum of five from each state, proportionate to population, by universal suffrage (Arts. 24, 41)	3 years unless sooner dissolved (Art. 28)				
Austria ¹	Council of Provinces and Estates (Art. 34)	Chosen representatives of provinces and of vocations (Arts. 34, 36)		National Council (Art. 24)	Elected by proportional voting. Universal suffrage over 21 years (Art. 26)	4 years (Art. 27)				
Belgium	Senate (Art. 26)	Elected in proportion to population of each province, plus some chosen by provincial councils and by Senate itself (Art. 83-85 B)	4 years (Art. 56)	House of Representatives (Art. 26)	Elected by direct universal suffrage over 21 years (Art. 47)	4 years (Art. 51) May be dissolved by King (Art. 71)				
Blutan ²										

	Bicameral Legislature						Unicameral Legislature		
	Upper House			Lower House			Name	Method of Selection	Tenure
	Name	Method of Selection	Tenure	Name	Method of Selection	Tenure			
Bolivia	Senate (Art. 47)	Elected 8 for each department (Art. 60)	6 years (Art. 71)	Chamber of Deputies (Art. 47)	Elected directly by the people (Art. 65)	4 years (Art. 65)			
Brazil	Federal Senate (Art. 60)	Three from each state, elected on majority principle (Art. 60)	8 years (Art. 60)	Chamber of Deputies (Art. 56)	Elected by proportional representation (Art. 60)	4 years (Art. 57)			
Bulgaria							National Assembly (Art. 16)	Elected by people, one deputy for every 30,000 inhabitants (Art. 18)	4 years (Art. 18)
Burma	Chamber of Nationalities (Sec. 66)	Chosen from various states (Sec. 87, Schedule 2)	4 years or earlier dissolution by President (Sec. 86)	Chamber of Deputies (Art. 66)	1 for each 30,000 to 100,000 population—elected (Sec. 85)	4 years or earlier dissolution by President (Sec. 85)			
Byelorussian S.S.R.							Supreme Soviet (Art. 20)	Elected by all citizens by general, equal, direct and secret suffrage, one deputy for each 20,000 population (Art. 21, 100)	4 years (Art. 21)
Canada	Senate (Art. 17)	Appointed by Governor General (Art. 24)	Life (Art. 20)	House of Commons (Art. 17)	Elected from Provinces (Art. 37)	5 years subject to dissolution by Governor General (Art. 50)			
Ceylon	Senate (Sec. 7)	15 elected by House 15 appointed by Governor General (Sec. 8)	6 years (Sec. 8)	House of Representatives (Sec. 7)	95 elected in the provinces 9 appointed by Governor General (Sec. 74)	5 years, unless sooner dissolved (Sec. 11)			
Chile	Senate (Art. 24)	5 for each of 9 provincial groups elected by direct ballot (Art. 40)	8 years (Art. 41)	Chamber of Deputies (Art. 24)	Direct vote—one for every 30,000 inhabitants (Art. 37)	4 years (Art. 38)			

TABLE V—Continued—LEGISLATIVE DEPARTMENT

	Bicameral Legislature				Unicameral Legislature		
	Upper House		Lower House		Name	Method of Selection	Tenure
	Names	Method of Selection	Tenure	Names	Method of Selection	Tenure	
China							
Colombia	Senate (Art. 93)	Elected by direct vote of all male citizens in respective departments (Art. 171, 176)	4 years (Art. 95)	House of Representatives (Art. 90)	Elected by direct vote of all male citizens in respective departments (Art. 90, 171, 177)	2 years (Art. 101)	Legislative Yuan (Art. 62) See also National Assembly, Art. 25
Costa Rica							
Cuba	Senate (Art. 120)	Elected by universal, equal, direct, secret suffrage; nine for each of six provinces (Art. 120)	4 years (Art. 120)	House of Representatives (Art. 123)	Elected by universal, equal, direct, secret suffrage; one for each 35,000 inhabitants (Art. 123)	4 years (Art. 123)	Constitutional Congress (Art. 74)
Czechoslovakia							
Denmark	Landsdag (Art. 29)	Universal suffrage by citizens over 35 years of age residing permanently in Landsdag constituencies (Art. 34)	8 years (Art. 30)	Folketing (Art. 29)	Elected by universal direct suffrage by all citizens 25 years or over (Art. 30)	4 years (Art. 33) King may dissolve (Art. 22)	National Assembly (Art. V)
Dominican Republic	Senate (Art. 13)	Universal suffrage—one for each province and district (Art. 10)	5 years (Art. 17)	Chamber of Deputies (Art. 13)	1 for every 60,000 inhabitants (Art. 20)	5 years (Art. 20)	300 elected members (Art. V)
Ecuador	Senate (Art. 43)	Elected by direct popular vote—2 for each province, also functional ones (Art. 42)	4 years (Art. 42)	House of Deputies (Art. 47)	Elected, one for each 40,000 inhabitants, by provinces (Art. 47)	2 years (Art. 40)	6 years (Art. V) Subject to dissolution by President (Sec. 80)

	Bicameral Legislature						Unicameral Legislature		
	Upper House			Lower House			Name	Method of Selection	Tenure
	Name	Method of Selection	Tenure	Name	Method of Selection	Tenure			
Egypt	Senate (Art. 74)	Two fifths nominated by King, three fifths by universal suffrage (Art. 74)	10 years (Art. 70)	Chamber of Deputies (Art. 82)	Elected on basis of universal suffrage, one for each 80,000 inhabitants (Art. 83)	5 years (Art. 86)			
El Salvador							National Assembly of Deputies (Art. 64)	Elected by universal suffrage (Art. 110)	1 year (Art. 80)
Ethiopia	Senate (Art. 80)	Appointed by Emperor (Art. 31)	No Constitutional Provision	Chamber of Deputies (Art. 30)	Chosen by dignitaries and local chiefs until people are capable of electing them (Art. 32)	Emperor may dissolve (Art. 40)			
Finland							Diet (Art. 2)	Elected by direct and proportional suffrage (Art. 4)	3 years (Art. 3)
France	Council of the Republic (Art. 6)	Elected by communal and departmental bodies by universal indirect suffrage (Art. 6)	See Art. 6	National Assembly (Art. 6)	Elected by universal direct suffrage (Art. 6)	See Art. 6			
Germany (Western German Federation)	Bundesrat (Art. 61)	Appointed and recalled by the States from among members of their governments (Art. 61)	At pleasure of the respective States which appoint them (Art. 61)	Bundesrat (Art. 38)	"Universal, equal, direct and secret elections" (Art. 38)	4 years unless sooner dissolved (Art. 39)			
Greece							The King and House of Representatives (Art. 92)	Elected proportionately by direct, universal, secret suffrage (Art. 66, 68)	4 years (Art. 69)
Guatemala							Congress (Art. 111)	Elected by popular direct suffrage, one deputy for each 80,000 inhabitants (Arts. 111-114)	4 years (Art. 114)
Haiti	Senate (Art. 42)	Elected by primary assemblies in the several departments (Art. 42)	6 years (Art. 42)	Chamber of Deputies (Art. 37)	Elected by universal suffrage (Art. 38)	4 years (Art. 40)			

TABLE V—Continued—LEGISLATIVE DEPARTMENT

	Bicameral Legislature				Unicameral Legislatures		
	Upper House		Lower House		Name	Method of Selection	Tenure
	Name	Method of Selection	Tenure	Name	Method of Selection	Tenure	
Honduras					Congress of Deputies	Elected, one (and an alternate) for each 25,000 inhabitants (Art. 100)	8 years (Art. 90)
Hungary					National Assembly (Art. 1)	Elected by the people on basis of universal, equal, direct and secret suffrage (Art. 1)	President can dissolve (Art. 10 (2))
Iceland	Upper House (Art. 32)	Elected by people by secret ballot (Art. 31)	4 years (Art. 31)	Lower House (Art. 32)	Elected by people by secret ballot (Art. 31)		4 years (Art. 31)
India ⁴	Council of State (Sec. 68)	250 members, chosen as representatives of states except 15 nominated by president (Sec. 67)	6 years (Sec. 68)	House of the People (Sec. 66)	Not more than 500 elected on basis of adult suffrage (Sec. 67)		5 years, unless sooner dissolved (Sec. 68)
Iran	Senate ⁵ (Const. Art. 43)	Half chosen by Shah Half elected Half of each class from Teheran and half from provinces (Const. Art. 43, 45)		National Assembly (Const. Art. 2)	Elected (Const. Art. 1-4)		2 years (Const. Art. 5)
Iraq	Senate (Art. 28)	Appointed by King (Art. 31)	8 years (Art. 32)	Chamber of Deputies (Art. 28)	Elected by secret ballot, one deputy for every 20,000 males (Art. 36)		4 years (Art. 38)
Ireland	Senate (Art. 15)	Chosen in various ways (See Art. 18)	Same as House of Representatives (Art. 18, 8)	House of Representatives (Art. 16)	Elected from constituencies by universal suffrage (Art. 10)		Not over 7 years (Art. 10)
Israel ⁶					Chamber of Deputies (Art. 26)	Universal adult suffrage (Art. 27)	4 years (Art. 33)

	Bicameral Legislature						Unicameral Legislature		
	Upper House			Lower House			Name	Method of Selection	Tenure
	Name	Method of Selection	Tenure	Name	Method of Selection	Tenure			
Italy	Senate (Art. 55)	Universal direct ballots by voters over 25 years of age, on a regional basis (Art. 57, 58)	6 years (Art. 60)	Chamber of Deputies (Art. 55)	Universal direct suffrage, one deputy for every 80,000 inhabitants (Art. 56)	5 years (Art. 60)			
Japan	House of Councillors (Art. 42)	To be elected in a manner to be prescribed by law (Art. 43, 47)	6 years (Art. 6)	House of Representatives (Art. 42)	To be elected in a manner to be prescribed by law (Art. 43, 47)	4 years (Art. 45)			
Jordan	Council of Notables (Art. 33)	Appointed by King (Art. 36)	8 years (Art. 37)	Council of Representatives (Art. 33)	Elected under Electoral Law (Art. 33)	4 years (Art. 33)			
Korea							National Assembly (Art. 31)	Elected by universal, direct, equal, secret suffrage (Art. 31, 32)	4 years (Art. 33)
Lebanon							Chamber of Deputies (Art. 16)	Elected as determined by law (Art. 24). May be dissolved by President (Art. 55)	See Art. 24
Liberia	Senate (Art. 11)	Elected by property owners, by counties (Art. 11, Sec. 2)	6 years (Art. 11)	House of Representatives (Art. 11)	Elected by property owners (Art. 11, Sec. 2)	4 years (Art. 11)			
Liechtenstein							Diet (Art. 45)	Elected by the people through general, equal, secret, and direct vote according to proportional elective system (Art. 46)	4 years (Art. 47)
Luxembourg							Chamber of Deputies (Art. 50)	Elected directly by universal suffrage of all citizens over 21 years of age (Art. 50, 51, 56)	6 years Grand Duke may dissolve (Art. 74)
Mexico	Senate (Art. 50)	2 for each state and federal district, elected directly (Art. 56)	6 years (Art. 56)	Chamber of Deputies (Art. 50)	One for every 150,000 direct elections (Art. 52)	3 years (Art. 51)			

TABLE V—Continued—LEGISLATIVE DEPARTMENT

	Bicameral Legislature						Unicameral Legislature		
	Upper House			Lower House			Name	Method of Selection	Tenure
	Name	Method of Selection	Tenure	Name	Method of Selection	Tenure			
Morocco							National Council (and the Prince) (Art. 21)	Elected by universal direct suffrage (Art. 22)	4 years (Art. 22)
Mongol Peoples Republic	Little Khural (Art. 18)	1 for every 10,000 population (Art. 18)	3 years (Art. 18)	Great Peoples' Khural (Art. 13)	1 for every 1800 population (Art. 14)	3 years (Art. 16)			
Nepal	Bharedari Sabha (Art. 22a)	Appointed by Maharaja to represent chief national interests and activities (Art. 22(c))	One fourth retire each year (Art. 22(d))	Rastra Sabha (Art. 22)	60% elected by people, 40% appointed by Maharaja (Art. 22(b))	One fourth retire each year (Art. 22(d))			
Netherlands	First Chamber (Art. 80)	Chosen by provincial states by proportional representation (Art. 83)	6 years (Art. 92)	Second Chamber (Art. 80)	Elected by direct universal suffrage, proportional representation (Art. 81, 82)	4 years (Art. 80)			
New Zealand	Legislative Council (Sec. 82)	Appointed by the Crown (dormant)	7 years (dormant)	House of Representatives (Sec. 32)	80 members—76 Europeans, 4 Maoris (Electoral Act, Sec. 3)	3 years (Sec. 3)			
Nicaragua	Senato (Art. 112)	15 members elected by people, plus ex-presidents (Art. 141)	6 years for Senators, life terms for ex-presidents (Arts. 143, 144)	Chamber of Deputies (Art. 112)	Direct popular vote—1 for every 30,000 persons (Art. 137)	6 years (Art. 139)			
Norway	Lagting (Art. 49)	Elected directly by universal suffrage (Art. 49, 50, 57)	4 years (Art. 54)	Odelsting (Art. 49)	Nominated by Storting from its own members who have been elected directly by people (Art. 73)	4 years (Art. 54)			
Pakistan	See note 7	See note 7	See note 7	See note 7	See note 7	See note 7	See Note 7	See Note 7	See Note 7
Panama							National Assembly (Art. 106, 108)	Elected by direct popular vote (Art. 106)	4 years (Art. 108)

	Bicameral Legislature						Unicameral Legislature		
	Upper House			Lower House			Name	Method of Selection	Tenure
	Name	Method of Selection	Tenure	Name	Method of Selection	Tenure			
Paraguay							Chamber of Representatives (Art. 87)	Elected directly by universal, secret obligatory suffrage (Art. 44, 87)	5 years (Art. 70)
Peru	Senate (Art. 89)	Elected by direct suffrage (Art. 90, 94, 94-88)	6 years (Art. 94)	Chamber of Deputies (Art. 88)	Elected by direct suffrage (Art. 90, 93, 94-88)	6 years (Art. 93)			
Philippines	Senate (Art. VI)	Elected, at large Art. 6, Sec. 2, 3	6 years (Art. VI)	House of Representatives (Art. VI)	Elected, apportioned among provinces (Art. VI, Sec. 5, 6)	4 years (Art. VI)			
Poland							Constituent Diet (Art. 2)	Not stated	5 years (Art. 6)
Portugal	Corporate Chamber (Art. 86)	Chosen by local autonomous bodies and social interests (Art. 102)	Depends on qualifying positions (Art. 102)	National Assembly (Art. 86)	Elected by "citizen electors" (Art. 88)	4 years (Art. 86)			
Rumania							Great National Assembly (Art. 38)	Elected according to a separate electoral law (Art. 47)	4 years (Art. 47)
San Marino							Great and General Council (Art. 1)	Elected by the Arringo (heads of families) (Electoral Law Art. 1)	
Saudi Arabia							Advisory Council (Art. 28)	Designated by King (Art. 28)	Not stated
Spain							Cortes (Act of July 17, 1942)	Some elected, some appointed, some representative of organisations (Act of July 17, 1942)	(See Act of July 17, 1942)
Sweden	Rigsdag Upper Chamber (Art. 49)	Elected by Provincial Councils (Rigsdag Law Art. 6)	8 years (Art. 6 Rigsdag Law)	Rigsdag Lower Chamber (Art. 49)	Elected by direct universal suffrage (Rigsdag Law Arts. 13, 16)	4 years (Art. 13 Rigsdag Law)			

TABLE V—Continued—LEGISLATIVE DEPARTMENT

	Bicameral Legislature				Unicameral Legislature		
	Upper House		Lower House		Name	Method of Selection	Tenure
	Name	Method of Selection	Tenure	Name	Method of Selection	Tenure	
Switzerland	Council of States (Art. 72)	Appointed by Cantons (Art. 30)		National Council (Art. 72)	Elected by direct and universal suffrage (Art. 72-76)	4 years (Art. 76)	
Syria							4 years (Art. 30) unless earlier dissolved (Art. 77)
Thailand	Senate (Sec. 78)	Appointed by King (Sec. 82)	6 years (Sec. 88)	House of Representatives (Sec. 73)	Elected by direct and secret vote of the people (Sec. 86)	4 years (Sec. 95)	
Turkey							4 years (Art. 13)
Ukrainian S.S.R.					Grand National Assembly (Art. 9)	Elected by universal suffrage (Art. 9)	4 years (Art. 21)
Union of South Africa	Senate (Art. 19)	Eight elected by Governor-General in Council; eight from each province, elected by its assemblymen and provincial councillors (Art. 26)	10 years or earlier dissolution of Parliament (Art. 25)	House of Assembly (Art. 19)	Elected directly by qualified voters (Art. 32, 35)	5 years or dissolution by Governor-General (Art. 45)	
Union of Soviet Socialist Republics	Soviet of Nationalities (Art. 33)	Elected from each republic, region and national area, by universal, equal, direct, secret suffrage (Art. 35)	4 years (Art. 36)	Soviet of the Union (Art. 33)	Elected by universal, equal, direct, secret suffrage (Art. 34)	4 years (Art. 36)	
United Kingdom of Great Britain and Northern Ireland	House of Lords	Partly hereditary Partly appointed	Life	House of Commons	Direct popular elections universal adult suffrage	5 years unless sooner dissolved	

	Bicameral Legislature						Unicameral Legislature		
	Upper House			Lower House			Name	Method of Selection	Tenure
	Name	Method of Selection	Tenure	Name	Method of Selection	Tenure			
United States of America	Senate (Art. 1)	Elected by popular vote, two Senators from each state (Amendment XVII)	6 years (Amendment XVII)	House of Representatives (Art. 1)	Chosen by the people (Art. I, Sec. 2)	2 years (Art. I, Sec. 1)			
Uruguay	Senate (Art. 78, 74)	Elected directly by people (Art. 88)	4 years (Art. 88)	House of Representatives (Art. 78, 74)	Elected directly by people (Art. 78)	4 years (Art. 80)			
Vatican City							Legislative power is vested in the Pope or, during a vacancy in the Pontifical See, in the Holy College (Constit. Law, Art. 1)		
Venezuela *	Chamber of Senators (Art. 141)	Elected by universal, direct, secret ballot (Art. 164)	6 years (Art. 140)	Chamber of Deputies (Art. 141)	Elected by universal, direct, secret ballot (Art. 151)	6 years (Art. 140)			
Yemen							Consultative Assembly	Elective	
Yugoslavia	Council of Nationalities (Art. 52)	Elected by each of the republics, the autonomous provinces, and the autonomous regions (Art. 64)	4 years (Art. 56)	Federal Council (Art. 52)	Elected by all citizens (Art. 53)	4 years (Art. 56)			

* According to situation before World War II. Country under military administration at time of going to press. See Summary.

* Authentic information not available. Believed to be unicameral.

* Country under military occupation at time of our going to press. See Summary, and draft constitutions of both Western and Eastern areas in Appendix.

* According to draft constitution not completely ratified at time of our going to press. See Summary and Appendix.

* Not yet organized.

* According to draft Constitution printed in Appendix.

* Not determined at time of our going to press.

* References are to the 1947 Constitution. The Constitution of 1938 (Art. 55) as amended in 1945 provides for chambers of Senators and Deputies elected for terms of four years, Senators chosen by legislative assemblies of the States (Art. 68) and Deputies by popular vote (Art. 56).

TABLE VI
EXECUTIVE DEPARTMENT

	<i>Title of Chief Executive</i>	<i>Method of Selection</i>	<i>Tenure of Office</i>	<i>Re-eligibility</i>
Afghanistan	The King (Art. 9)	"Succession to the throne will be in accordance with the selection of His Majesty and the people of Afghanistan" (Art. 8)	King—See Art. 5 Ministers responsible to National Council (Art. 76)	See Art. 5
Albania	"The Government" (Prime Minister, Ministers, and Chairmen of Committees of Economic Planning and of Control) (Arts. 57, 60, 65)	By the People's Convention (Art. 57)	Not fixed—appointed and dismissed by People's Convention (Art. 57)	No limitation
Andorra	Two Vicars	Selected by Bishop of Urgel and French Government	Not provided	No limitation
Argentina	President (Art. 74)	Direct popular election (Art. 82)	6 Years (Art. 77)	No limitation
Australia	Governor General and Federal Executive Council (Art. 61)	Governor General by the British Crown (Art. 61) Council, by the Governor General (Art. 62)	Council serves during pleasure of Governor General (Art. 68)	No limitation
Austria ¹	Federal President (Art. 60)	Popular election (Art. 60)	6 Years (Art. 60) Ministers responsible to National Council (Art. 76)	Only once (Art. 60)
Belgium	The King (Art. 60)	Hereditary (Arts. 60, 61)	Life. If incapacitated, Houses select a Regent (Arts. 82-84) Ministers responsible to King (Art. 65)	Not applicable
Bhutan	King	Information not available	Information not available	Information not available
Bolivia	President and his Ministers of State (Art. 83)	President is elected by direct vote (Art. 84) Ministers are appointed by President (Art. 97)	President: 4 years (Art. 84) Ministers: at pleasure of President (Art. 97)	President: after lapse of 4 years (Art. 85)
Brazil	President (Art. 78)	Elected (Art. 81) By universal direct suffrage (Art. 134)	5 Years (Art. 82)	May not succeed himself (Art. 139)

	<i>Title of Chief Executive</i>	<i>Method of Selection</i>	<i>Tenure of Office</i>	<i>Re-eligibility</i>
Bulgaria	"The Government" (certain Ministers, and Presidents of Commissions for State Planning, for State Control and for Science, etc.) (Art. 85, 89)	Elected by National Assembly (Art. 40)	Until relieved by National Assembly; to which it is responsible (Arts. 34, 40)	No limitation
Burma	President (Sec. 45, 50) and Ministers (Sec. 50, 59, 114, 122)	President: elected by both Chambers of Parliament in joint session (Sec. 46) Ministers: selected by Chamber of Deputies (Sec. 56)	President, 5 years (Sec. 48(1)) Ministers: responsible to Chamber of Deputies (Sec. 56)	President: not for more than two terms in all (Sec. 48(2))
Byelorussian SSR	Presidium of Supreme Soviet (Art. 29, 30)	Elected by Supreme Soviet, to which it is responsible (Arts. 29, 30)	Until a newly-elected Supreme Soviet elects a new Presidium (Arts. 30, 30)	No limitation
Canada	The King, by the Governor General and his Privy Council (Art. 9, 10, 11)	King appoints Governor General, who appoints Privy Council (Arts. 10, 11)	Pleasure of appointing authority (Art. 11)	No limitation
Ceylon	His Britannic Majesty through the Governor General (Art. 46) and a Prime Minister and his Cabinet (Art. 46)	Crown appoints Governor General, who appoints Prime Minister and Cabinet from the Parliament (Art. 46)	Ministers responsible to Parliament (Art. 40)	No limitation
Chile	President (Art. 60)	Direct popular vote (Art. 63)	6 Years (Art. 62)	Not eligible for the ensuing term (Art. 62)
China	President (Art. 35) See also Executive Yuan (Art. 53)	As "prescribed by law" (Art. 46)	6 Years (Art. 47) Executive Yuan responsible to Legis- lative Yuan (Art. 57)	"May be elected for a second term" (Art. 47)
Colombia	President (Art. 114)	Elected by direct vote of the citizens (Art. 114)	4 Years (Art. 114)	May not succeed himself (Art. 126)
Costa Rica	President (Art. 102)	Elected by direct vote of citizens (Art. 69)	4 Years (Art. 104)	May not succeed himself (Art. 104)

TABLE VI—Continued—EXECUTIVE DEPARTMENT

	<i>Title of Chief Executive</i>	<i>Method of Selection</i>	<i>Tenure of Office</i>	<i>Re-eligibility</i>
Cuba	President (Art. 138)	President is elected by universal, equal, direct, suffrage in each Province (Arts. 140, 142)	4 Years (Art. 140)	After lapse of 8 years (Art. 140)
Czechoslovakia	President (Art. 67)	Elected by National Assembly (Art. 68)	7 Years (Art. 69)	May succeed himself once and thereafter only after lapse of 7 years (Art. 70)
Denmark	King (Art. 2)	Hereditary (Art. 1) King appoints and dismisses Ministers (Art. 13)	Life (Art. 1)	Not applicable
Dominican Republic	President (Art. 44)	By direct vote (Art. 44)	5 Years (Art. 44)	No limitation
Ecuador	President (Art. 81)	Elected by universal direct suffrage (Art. 84)	4 Years (Art. 84)	After lapse of 4 years (Art. 83)
Egypt	King (Art. 28)	Hereditary (Art. 32)	Life (Art. 32) Ministers responsible to Chamber of Deputies (Arts. 61, 66)	Not applicable
El Salvador	President (Art. 80)	Elected by people unless no absolute majority; then by Assembly (Art. 80)	4 Years (Art. 82)	After lapse of 4 years (Art. 82)
Ethiopia	Emperor (Art. 6)	Hereditary (Art. 3)	Life	Not applicable
Finland	President (Art. 2)	Elected by people (Art. 23)	6 Years (Art. 23)	No limitation
France	President and President of Council of Ministers (Arts. 29, 47)	President elected by Parliament (Art. 26) President of Council of Ministers is appointed by President of the Republic after vote of confidence by National Assembly (Arts. 46, 46)	President, 7 years (Art. 29) President of Council of Ministers, dependant on votes of confidence or censure (Arts. 49, 50)	President eligible for re-election only once (Art. 29)

	<i>Title of Chief Executive</i>	<i>Method of Selection</i>	<i>Tenure of Office</i>	<i>Re-eligibility</i>
Germany ³ (Western German Federation)	Federal President (Art. 64) and Federal Chancellor (Art. 63)	President by a Federal Convention (Art. 64) Chancellor by Bundestag on proposal of the President (Art. 63)	President—5 Years (Art. 64) Chancellor at pleasure of Bundestag (Art. 67)	Immediate reelection of President only once (Art. 64)
Greece	King and his Ministers (Art. 27)	King is Hereditary (Art. 45) Ministers are appointed by King (Art. 27)	King for life (Art. 45) Ministers, until dismissed by King (Art. 31)	Not applicable
Guatemala	President and his Ministers (Art. 128)	President is elected by people (Art. 130) President appoints Ministers (Art. 137(10))	6 Years (Art. 132)	After lapse of 12 years (Art. 132)
Haiti	President (Art. 80)	Elected by National Assembly by absolute majority vote (Arts. 47(1), 40)	6 Years (Art. 81)	Not immediately re-eligible (Art. 81)
Honduras	President (Art. 114)	Elected by popular direct suffrage (Art. 116)	6 Years ³ (Art. 117)	Not for following term ³ (Art. 118)
Hungary	President (Art. 2)	Elected by National Assembly (Art. 2)	4 Years (Art. 2)	Can not succeed himself (Art. 5)
Iceland	President of the Republic and other Governmental authorities (Cabinet) (Arts. 2, 13)	President is elected by direct secret ballot (Art. 6)	4 Years (Art. 6) Can be recalled by Plebisite (Art. 11)	No limitation
India	President ⁴ (Secs. 41-45)	By an electoral college ⁴ (Secs. 41-45)	5 Years ⁴ (Secs. 52, 55, 56)	See Note 4
Iran	Shah, and Ministers appointed by Shah responsible to National Assembly (Const. Law, Arts. 86, 88-90)	Hereditary as to Shah (Const. Law, Art. 36)	Life (Const. Law, Art. 36)	Not applicable
Iraq	King through Ministers appointed by him (Arts. 26, 64)	Hereditary as to King (Art. 20)	Life (Art. 20)	Not applicable

TABLE VI—Continued—EXECUTIVE DEPARTMENT

	<i>Title of Chief Executive</i>	<i>Method of Selection</i>	<i>Tenure of Office</i>	<i>Re-eligibility</i>
Ireland	President (Art. 12) and Ministers responsible to House of Representatives (Art. 13)	President elected by direct universal suffrage (Art. 12) Ministers appointed by President on nomination of Dail (Art. 13)	President, 7 years (Art. 12(3)) Ministers responsible to House of Representatives (Art. 13)	President, re-eligible for one term only (Art. 12(3))
Israel	President (Art. 49) and Executive Council (Art. 52)	President, by Chamber of Deputies (Art. 50) Executive Council by President "after consultation with the leaders of the parliamentary parties" (Art. 50)	President, 5 years (Art. 51) Executive Council, responsible to Chamber of Deputies (Art. 54)	President, one additional term only (Art. 51)
Italy	President (Art. 83) and Council of Ministers (Art. 94)	President elected by two thirds majority of Parliament in joint session (Art. 83) Council of Ministers appointed by President of Republic (Art. 92)	President, 7 years (Art. 85) Council of Ministers, during confidence of both Chambers (Art. 94)	No limitation
Japan	Cabinet (Art. 65)	Chosen by the Diet (Art. 67)	Indeterminate; responsible to Diet (Art. 69)	No limitation
Jordan	The King and Ministers (Art. 34)	King, hereditary (Art. 22) Ministers, appointed by King (Art. 27)	King, life (Art. 22) Ministers, subject to dismissal by King (Art. 28)	Not applicable to King No provision as to Ministers
Korea	President (Art. 51) and State Council (Art. 68)	President elected by National Assembly (Art. 53) Ministers appointed by President (Art. 69)	President, 4 years (Art. 55)	President eligible for consecutive re-election once only (Art. 55)
Lebanon	President (Art. 49) and Ministers (Art. 63)	President, elected by two thirds majority of votes by Chamber of Deputies (Art. 49) Ministers are appointed and removed by President (Arts. 53, 54)	President, 6 years (Art. 49)	President, only after interval of 6 years (Art. 49)

	<i>Title of Chief Executive</i>	<i>Method of Selection</i>	<i>Tenure of Office</i>	<i>Re-eligibility</i>
Liberia	President (Art. III, Sec. 1)	Elected by the people (Art. III, Sec. 1)	8 Years (Art. III, Sec. 1)	Can not succeed himself (Art. III, Sec. 1)
Liechtenstein	"Government in Council" consisting of Head of Government and two Administration Councilors (Arts. 76, 79)	Head of Government appointed by Prince (Art. 70)	Head of Government 6 years; Administration Councilors same as Diet (Art. 70)	Yes (Art. 70)
Luxembourg	Grand Duke (Art. 33)	Hereditary (Art. 3)	Life (Art. 3)	Not applicable
Mexico	President (Art. 80)	Direct vote (Art. 81)	6 Years (Art. 83)	Not re-eligible (Art. 83)
Monaco	The Prince, who appoints a Minister of State and three Councilors (Arts. 15-17)	Not stated as to Prince; Ministers, appointed by Prince (Art. 17)	Not stated	Not applicable
Mongol Peoples Republic	Council of Ministers (Art. 27)	Appointed by the Little Khural (Art. 32)	Indeterminate (Art. 28)	No limitation
Nepal	Maharaja (Art. 6) and Ministers chosen by him (Art. 7)	Maharaja See Art. 3 Ministers, appointed by Maharaja (Art. 6)	Maharaja, life, see Art. 3 Ministers, 4 years (Art. 9)	Not applicable
Netherlands	King (Art. 54)	Hereditary (Arts. 10, 11, 12)	Life	Not applicable
New Zealand	Governor General and Ministers	Governor General, by British Crown	Governor General, at pleasure of Crown; Ministers, responsible to Parliament (Const. Art. 1852, Art. 44)	No limitations
Nicaragua	President (Art. 166)	Direct popular vote (Art. 167)	6 Years (Art. 169)	Not eligible for next succeeding term (Art. 171)

TABLE VI—Continued—EXECUTIVE DEPARTMENT

	<i>Title of Chief Executive</i>	<i>Method of Selection</i>	<i>Tenure of Office</i>	<i>Re-eligibility</i>
Norway	King (Art. 3)	Hereditary (Art. 6)	Life (Art. 6)	Not applicable
Pakistan	Note 6	Note 6	Note 6	Note 6
Panama	President and Ministers appointed and dismissed by him (Arts. 136, 143)	Elected by direct popular vote (Art. 138)	4 Years (Art. 138)	May not be re-elected for either of the two terms immediately following (Art. 139)
Paraguay	President (Art. 46)	Elected directly by universal, secret, obligatory suffrage (Arts. 40, 44)	6 Years (Art. 47)	Once (Art. 47)
Peru	President (Art. 134)	Elected by direct suffrage (Art. 136)	6 Years (Art. 130)	Not until expiration of one term (Art. 143)
Philippines	President of the Philippines (Art. VII, Sec. 1)	By direct vote of the people (Art. VII, Sec. 2)	4 Years (Art. VII, Sec. 2)	May not serve for more than 8 consecutive years (Art. VII, Sec. 5)
Poland	President of the Republic (Art. 12) through Ministers whom he appoints and recalls, but who are responsible to Diet (Art. 13)	President, elected by the Diet (Art. 12)	President, 7 years (Art. 12)	No limitation
Portugal	President (Art. 72)	Elected by direct suffrage of the citizen electors (Art. 72)	7 Years (Art. 72)	No limitation
Rumania	"The Government" (Council of Ministers) (Art. 66)	Elected by the Great National Assembly (Arts. 39-41)	Until removed by vote of majority of Great National Assembly (Art. 42)	No limitation
San Marino	Two members of the Great Council (No express constitutional provision)	Chosen by Great Council (No express constitutional provision)	6 Months (No express constitutional provision)	No express constitutional provision

	<i>Title of Chief Executive</i>	<i>Method of Selection</i>	<i>Tenure of Office</i>	<i>Re-eligibility</i>
Saudi Arabia	The King, who appoints a Viceroy (Lieutenant General), Directors, and Chiefs (Arts. 6-8)	Not stated	Not stated	No limitation
Spain	"Chief of State" (Charter of Spanish People, Art. 2)	By Cortes on proposal of Chief of State or Government and Council of Kingdom (Law of Succession, Arts. 3-4)	Not stated	No limitation
Sweden	King (Art. 1) and Council of State (Arts. 1, 6)	King, hereditary (Art. 1) Council of State, by King and Riksdag (Art. 6)	King, hereditary (Art. 1)	Not applicable
Switzerland	Federal Council (Art. 65)	Appointed by Councils in joint session (Art. 66) Its President and Vice President are chosen from it by Federal Assembly (Art. 66)	4 Years (Art. 66) President and Vice President serve a one year term	No limitation on Councillors, but President and Vice President cannot succeed themselves (Art. 66)
Syria	The President and Ministers (Arts. 31, 76)	President is elected by Chamber (Art. 69) Ministers are appointed by President (Art. 70)	President, 5 years (Art. 68)	No limitation
Thailand	The King through a Council of Ministers (Sec. 9)	King, not stated; Ministers are appointed by King (Sec. 140)	Ministers are responsible to Parliament (Secs. 145-149)	No limitation
Turkey	Grand National Assembly through President of Republic and Council of Ministers (Art. 7)	Assembly: elected by people (Art. 9) President: elected by Assembly from own members (Art. 31) Ministers: chosen by President (Art. 44)	Assembly: 4 years (Art. 9) President: 1 year (Art. 31) Ministers are subject to dismissal by Assembly (Art. 7)	President is re-eligible (Art. 31)

TABLE VI—Continued—EXECUTIVE DEPARTMENT

	<i>Title of Chief Executive</i>	<i>Method of Selection</i>	<i>Tenure of Office</i>	<i>Re-eligibility</i>
Ukrainian S.S.R.	Council of Ministers (Arts. 39, 41)	Chosen by Supreme Soviet (Arts. 38, 46)	Responsible to Supreme Soviet or to its Presidium (Art. 40)	No limitation
Union of South Africa	The King, through Ministers, or optionally through a Governor-General (Act No. 69 of 1934, sec. 4)	Governor-General: appointed by King (Art. 9) Ministers: appointed by Governor-General (Art. 14)	Governor-General: during the King's pleasure (Art. 9) Ministers: during pleasure of King or Governor-General (Art. 4)	No limitation
Union of Soviet Socialist Republics	Council of Ministers (Art. 64)	Appointed by Supreme Soviet (Art. 70)	Responsible to Supreme Soviet; or when not in session, to its Presidium (Art. 66)	No limitation
United Kingdom of Great Britain and Northern Ireland	The King and Ministers	Throne is hereditary; Ministers are appointed by King	Five years, as to Ministers, unless sooner recalled (See Parliament Act of 1911; I and II Geo. V, Ch. 13)	No limitation
United States of America	President (Art. II, Sec. 1)	Elected by electors from each State, who are elected by popular vote (Art. II, Sec. 1 and Amendment XII)	4 Years (Art. II, Sec. 1)	No limitation
Uruguay	President and Council of Ministers (Art. 145)	President: elected by universal suffrage (Art. 148) Council of Ministers: chosen by President (Arts. 161, 162)	President: 4 years (Art. 149) Council of Ministers: until dismissed by President (Art. 162) or disapproved by General Assembly (Arts. 136-140)	President: only after 4 years from expiration of term (Art. 149)
Vatican City	The Pope (Art. 1) he may delegate executive power to the Gov- ernor (Constit. Law, Art. 6)	Pope Governor is appointed by Pope (Constit. Law, Art. 7)	Pope is appointed for life Governor: at the pleasure of the Pope (Constit. Law, Art. 7)	No limitation

	<i>Title of Chief Executive</i>	<i>Method of Selection</i>	<i>Tenure of Office</i>	<i>Re-eligibility</i>
Venezuela ¹	President of the Republic (Art. 190)	Elected by universal, direct, secret ballot (Art. 192)	5 Years (Art. 140)	Not eligible for the constitutional period immediately following (Art. 183)
Yemen	King	Elected	Information not available	Information not available
Yugoslavia	"The Government" (consisting of President, Ministers and officials described in Art. 81) and Presidentum	Appointed by People's Assembly in joint session (Art. 77)	Responsible to People's Assembly (Art. 77)	No limitation

¹ According to situation before World War II. Country under military occupation at time of our going to press. See Summary.

² Country under military occupation at time of our going to press. See Summary, and draft Constitutions in Appendix.

³ Extended as to President Andino by Congress and constitutional amendment from February 1, 1933 to January 1, 1940.

⁴ According to draft Constitution, not yet completely ratified at time of our going to press. See Summary and Appendix.

⁵ According to draft Constitution printed in Appendix.

⁶ Not determined at time of our going to press.

⁷ References are to the 1947 Constitution. The corresponding provisions of the 1936 Constitution as amended in 1945 are in Arts.

96, 100 (election by the Chambers in joint session), and 99 (five year term and ineligibility for immediate succession).

TABLE VII
JUDICIAL DEPARTMENT

Highest Court						Provisions Regarding Lower Courts
Name	Method of Selecting	Tenure of Office	Power to Determine Constitutionality of Legislation			
Afghanistan	Appeals from courts may be taken to Ministers, then to Prime Minister, then to King (Art. 24); also a temporary Supreme Court (Djwan-i-ali) for trial of Ministers (Art. 96)	No provision respecting ordinary courts; "Supreme Court," selected according to a "Special Code" (Art. 90)	"Supreme Court" is temporary <i>ad hoc</i> body (Art. 96)	No constitutional provision	Are contained in "Fundamental Regulations" (Art. 94)	
Albania	Supreme Court (Art. 76)	By People's Convention (Art. 81)	4 Years (Art. 81)	This function is lodged in the Presidium of the People's Convention (Art. 84)	Members of Prefectural and Sub-Prefectural Courts are elected for three years by the Lower People's Councils (Art. 81)	
Andorra	See Note 1	Appointed in equal numbers by the Bishop of Urgel and French Government	See Note 1	See Note 1	See Note 1	
Argentina	Supreme Court of Justice (Art. 89)	Appointed by President, with consent of Senate (Art. 83)	During good behavior (Art. 91)	Yes (Art. 95)	Arts. 83, 89, 91	
Australia	High Court of Australia ² (Art. 71)	By Governor General in Council (Art. 72)	Removable only for misbehavior or incapacity (Art. 72)	See Art. 76	Arts. 71-80	
Austria	Supreme Court ² (Art. 92)	See Note 4	See Note 4	Separate Constitutional Court ² (Arts. 137-147)	Arts. 82-94	
Belgium	Court of Cassation (Art. 95)	Appointed by King (Art. 90)	Life (Art. 100)	No (Art. 28)	Arts. 99-105	
Bhutan	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1	
Bolivia	Supreme Court (Art. 136)	By Chamber of Deputies (Art. 146A)	10 Years (Art. 145)	Yes (Art. 143(5))	Art. 135	
Brazil	Federal Supreme Court (Art. 98)	By President, after approval by Federal Senate (Art. 99)	Life (Art. 96)	Yes (Art. 101 (III))	Art. 94	
Bulgaria	Supreme Court (Art. 61)	By National Assembly (Art. 61)	5 Years (Art. 61)	Function of Presidium (Art. 36(12))	Art. 60	

	<i>Highest Court</i>				<i>Provisions Regarding Lower Courts</i>
	<i>Name</i>	<i>Method of Selecting</i>	<i>Tenure of Office</i>	<i>Power to Determine Constitutionality of Legislation</i>	
Burma	Supreme Court (Art. 136)	Appointed by President with approval of Joint Session of Parliament (Sec. 140)	Life (Sec. 143(2))	Yes (Art. 136(2))	Secs. 133-140
Byelorussian S.S.R.	Supreme Court (Art. 80)	By Supreme Soviet (Art. 83)	5 Years (Art. 83)	See Art. 30	Arts. 80-92
Canada	Supreme Court of Canada * (See Art. 101)	Appointed by Governor General (See Art. 101)	Life (See Art. 101)	So construed	Art. 96
Ceylon	Supreme Court ¹ (Art. 82, Order in Council, May 15, 1946)	Appointed by Governor General (Art. 82)	Good behavior, retired at age of 62 (Art. 82)	No provision	Art. 82, Ceylon (Constitutional) Order in Council, May 15, 1946
Chile	Supreme Court (Art. 80)	Chosen by President from list prepared by Court (Art. 83)	Good behavior (Art. 85)	Yes (Art. 80)	Arts. 83-87
China	The Judicial Yuan (Art. 77)	Appointed by President of the Republic with consent of the Control Yuan (Art. 79)	Life (Art. 81)	Yes (Art. 78)	Art. 82
Colombia	Supreme Court of Justice (Art. 147)	Elected by the Legislative Houses from lists of three nominated by President of the Republic (Art. 149)	5 Years May be re-elected indefinitely (Art. 148)	Yes (Art. 214)	Art. 152
Costa Rica	Supreme Court of Justice (Art. 121)	Elected by Congress (Arts. 127, 133)	4 Years Can be re-elected indefinitely (Art. 130)	Power to interpret laws is given to Congress exclusively (Art. 82(13))	Art. 121
Cuba	Supreme Court (Art. 171)	Appointed by President with approval of Senate (Arts. 142, 180)	Life (Art. 200)	Yes (Arts. 172, 182)	Art. 171
Czechoslovakia	Supreme Court (Sec. 137)	To be prescribed by law (Sec. 137)	Life (See Sec. 141)	Power given to Presidium of National Assembly (Sec. 66)	Sec. 137
Denmark	Supreme Court (See Art. 66); also Special High Court of the Kingdom for State Trials (Art. 66)	Not stated as to Supreme Court (See Art. 17); Special High Court composed of equal number of members of Supreme Court and judges elected by Landsting (Art. 66)	Life (or 66) as to Supreme Court (Art. 71); four years as to Special High Court (Art. 66)	Courts may decide questions "relating to the limits of the authority of the executive" (Art. 70)	Arts. 2, 71
Dominican Republic	Supreme Court of Justice (Art. 57)	Selected by Senate (Art. 16)	Not stated	No constitutional provision	Art. 57

TABLE VII—Continued—JUDICIAL DEPARTMENT

	Highest Court				Provisions Regarding Lower Courts
	Name	Method of Selecting	Tenure of Office	Power to Determine Constitutionality of Legislation	
Ecuador	Supreme Court (Art. 113)	Elected by Congress (Art. 66)	6 Years (Art. 116)	Exclusive power of Congress, Art. 189; (see also Arts. 145, 146)	Art. 113
Egypt	Court of Cassation ⁴ ; also Special Court of Justice for trial of ministers (Art. 67)	Not stated as to Court of Cassation; Special Courts composed of: 8 Senators chosen by lot and 8 Senior Magistrates of Highest Court (Art. 67)	Not stated; Special Court is <i>ad hoc</i>	No constitutional provision	Art. 30
El Salvador	Supreme Court of Justice (Art. 94)	Elected by National Assembly of Deputies (Art. 68(5))	2 Years (Art. 102)	Yes ⁶ (Art. 97(10))	Art. 94
Ethiopia	Supreme Imperial Court ⁴	See Note 5	See Note 5	No constitutional provision	Art. 50
Finland	Supreme Court and Supreme Administrative Court (Art. 2)	Appointed by President upon recommendation of members of the respective courts (Art. 87)	Good behavior subject to retirement requirements by law (Art. 91)	Supreme Court may request legislation interpreting or modifying laws (Art. 58)	Art. 2
France	Court of Cassation ¹ ; also Superior Council of the Judiciary (Art. 83)	No provision as to Court of Cassation. See Art. 83 for composition of Council of Judiciary	No provision as to Court of Cassation. 6 years as to Council (Art. 83)	No constitutional provision	Art. 84
Germany ⁶ (Western Germany federation)	Federal Constitutional Court, and Supreme Federal Court (Art. 92)	Federal Constitutional Court—half by Bundestag; half by Bundesrat (Art. 94) Federal Supreme Court (See Art. 95)	Good behavior (Art. 97)	Yes (Art. 93)	Art. 92
Greece	Court of Cassation (Art. 88)	Appointed by King (Art. 87)	Retired between 65 and 76 as fixed by law (Art. 88)	No; but see Art. 82	Art. 87
Guatemala	Supreme Court (Art. 164)	Elected by Congress (Art. 164)	4 Years (Art. 163)	Yes (Art. 170)	Art. 164
Haiti	Tribunal of Cassation (Art. 101)	Appointed by President of the Republic (Art. 101)	10 Years (Art. 101)	Yes (Art. 111)	Arts. 98-109
Honduras	Supreme Court of Justice (Art. 129)	Elected by Congress (Art. 131)	6 Years (Art. 130)	Yes (Arts. 141, 145)	Art. 129
Hungary	Supreme Court. ⁴ See Art. 18	No constitutional provision	No constitutional provision	No constitutional provision	See Art. 18

	<i>Highest Court</i>				<i>Provisions Regarding Lower Courts</i>	
	<i>Name</i>	<i>Method of Selecting</i>	<i>Tenure of Office</i>	<i>Power to Determine Constitutionality of Legislation</i>		
Iceland	Supreme Court ⁴	Not stated	Good behavior—retirement at 66 (Art. 61)	No constitutional provision	Art. 69	
India ¹	Supreme Court (Art. 103)	Appointed by President (Art. 103)	Good behavior—retirement at 65 (Art. 103)	Yes (Arts. 110, 111)	See Art. 103, et seq	
Iran	Supreme Court (Art. 71); also High Court of Appeal (Art. 76)	Chosen in the manner decreed by the judicial Laws (See Art. 80)	Good behavior (Art. 81)	High court of appeal may judge disputes relating to government departments and offices (Art. 88)	Const. Law Art. 71	
Iraq	Court of Cassation ⁴ ; also High Court (Art. 81)	Court of Cassation—not stated; High Court composed of 4 chosen by Senate and 4 judges of Court of Cassation (Art. 82)	Not stated	See Arts. 81, 83, 84, 121	Arts. 88-80, 88, 89	
Ireland	Supreme Court (Arts. 30, 34)	Appointed by President (Art. 35)	Life (Art. 35)	Yes (Arts. 28, 34)	Art. 34	
Israel ²	Supreme Court (Art. 70)	Not stated (See Art. 71)	See Art. 71	Yes (Art. 70)	See Art. 71	
Italy	Constitutional Court (Art. 135)	One third appointed by President of Republic One third elected by Parliament One third appointed by judges of the highest ordinary and administrative courts (Art. 136)	12 years. Not immediately re-eligible (Art. 135)	Yes (Arts. 134, 137)	Arts. 102, 108	
Japan	Supreme Court (Art. 70)	Chief Judge appointed by Emperor upon designation of Cabinet (Art. 6) Other Judges appointed by Cabinet (Art. 70)	Subject to review by the people at first general election of House of Representatives, and a interval of ten years thereafter (Art. 70)	Yes (Art. 81)	Arts. 70-82	
Jordan	See Art. 55	Appointed by Irada (Art. 55)	See Art. 55	See Art. 68	Art. 56	
Korea	Supreme Court (Art. 70)	Chief Justice appointed by President (Art. 78) Others as determined by law (Art. 70)	10 Years (Art. 70)	Five Supreme Court judges and five members of National Assembly and the Vice President comprise a Constitution Committee for this purpose (Art. 81)	Art. 70	

TABLE VII—Continued—JUDICIAL DEPARTMENT

	Highest Court				Provisions Regarding Lower Courts
	Name	Method of Selecting	Tenure of Office	Power to Determine Constitutionality of Legislation	
Lebanon	See Article 20 for General Court. There is a High Court for Impeachment (Art. 80)	High Court consists of seven deputies elected by Chamber and the eight highest Magistrates (Art. 80)	High Court convenes for special trials (See Arts. 60, 71)	No constitutional provision	Art. 20
Liberia	Supreme Court (Art. IV, Sec. 1)	Appointed by President with advice and consent of Senate (Art. III, Sec. 1)	During good behavior (Art. IV, Sec. 1)	No constitutional provision	Art. IV, Sec. 1
Liechtenstein	Supreme Court (Art. 101); also a High Tribunal of the State (Art. 104)	Supreme Court appointed by Prince upon nominations by Diet (Art. 102); High Tribunal of the State chosen by Diet (Art. 105)	No constitutional provision; organization to be determined by law (Art. 101)	Yes, in High Tribunal of the State (Arts. 104, 112)	Arts. 99-103
Luxembourg	Superior Court of Justice (Art. 87)	Named by Grand Duke (Art. 90)	Life (Art. 91)	No constitutional provision	Arts. 84-95
Mexico	Supreme Court (Art. 94)	Nominated by President and approved by Senate (Art. 90)	During good behavior (Art. 94)	Yes (Arts. 103, 105)	Arts. 94, 97, 103, 104
Monaco	Court of Appeal provided for by ordinance (Art. 57, 58); also Supreme Tribunal for constitutional guarantees (Art. 14)	Court of Appeals as provided by ordinance (Art. 57); Supreme Tribunal appointed by Prince upon nominations by Council of State, National Council, Court of Appeal, and Civil Tribunal of first instance (Art. 58)	No constitutional provision (See Arts. 57, 58)	Yes (Art. 14)	Art. 57
Mongol Peoples Republic	Supreme Court of the Republic (Art. 40)	Elected by Little Khural (Art. 52)	4 Years (Art. 52)	Yes (Art. 14)	Art. 49
Nepal	High Court for Nepal (Art. 53)	Appointed by Maharaja (Art. 53(b))	Until 65 years of age (Art. 54)	No constitutional provision	Arts. 43-52
Netherlands	High Court of the Netherlands (Art. 169)	Appointed by King on nomination of Second Chamber (Arts. 169, 173)	Life (Art. 167)	No constitutional provision	Arts. 156, 167
New Zealand	Supreme Court (Judicature Act 1908, Part I)	Appointed by Governor General (1908 Act, Art. 11)	Good behavior—optional retirement at 60 (1908 Act, Arts. 8-12)	See Art. 16	Judicature Act 1908 as amended
Nicaragua	Supreme Court (Art. 106)	Elected by Congress (Art. 204)	6 Years (Art. 203)	Yes (Arts. 213(10), 217)	Art. 106, <i>et seq.</i>

	<i>Highest Court</i>				<i>Provisions Regarding Lower Courts</i>
	<i>Name</i>	<i>Method of Selecting</i>	<i>Tenure of Office</i>	<i>Power to Determine Constitutionality of Legislation</i>	
Norway	Supreme Court (Art. 88); also a High Court of Impeachment (Art. 86)	Appointed (Art. 91)	Not stated	No constitutional provision	Art. 86, <i>et seq.</i>
Pakistan	See Note 8	See Note 8	See Note 8	See Note 8	See Note 8
Panama	Supreme Court of Justice (Art. 104)	Appointed by President with approval of Cabinet Council and National Assembly (Arts. 144, 165)	10 Years (Art. 165)	Yes (Art. 167)	Art. 164
Paraguay	Supreme Court (Art. 80)	President in agreement with Council of State (Art. 84)	5 Years (Art. 82)	See Art. 88	Art. 80
Peru	Supreme Court of Justice (Art. 222)	Elected by Congress from a list presented by the Executive Power (Arts. 221, 222)	See Art. 220	No constitutional provision	Art. 221
Philippines	Supreme Court (Art. VIII, Sec. 1)	Appointed by President with consent of Commission on Appointments (Art. VIII, Sec. 5)	During good behavior until 70 years of age (Art. VIII, Sec. 9)	Yes (Art. VIII, Secs. 2, 10)	Art. VIII, Sec. 1
Poland	As determined by law (Art. 25)	As determined by law (Art. 25)	As determined by law (Art. 25)	No (Art. 24(3))	Art. 25
Portugal	Supreme Court (Art. 110)	Appointed (Art. 110)	Life (Art. 110)	Only the National Assembly has this power (Art. 123)	Arts. 110-123
Rumania	Supreme Court (Art. 86)	Appointed by Presidium of Great National Assembly on recommendation of the Government (Art. 80)	Not stated See Art. 94	No constitutional provision	Arts. 86, 87, 94
San Marino	No constitutional provision	No constitutional provision	No constitutional provision	No constitutional provision	No constitutional provision
Saudi Arabia	No provision except that President of Council is President of the Judiciary (Decree of Dec. 26, 1931, Art. 16(7))	No constitutional provision	No constitutional provision	No constitutional provision	Decree of Dec. 26, 1931 Art. 17(6)
Spain	See Labor Charter, Art. VII	No constitutional provision	No constitutional provision	No constitutional provision	Labor Charter, Art. VII
Sweden	Supreme Court (Art. 17; see also 20, 21)	Appointed by King, in whom Judicial Power is vested (Art. 17)	Not removable except upon enquiry and sentence (Art. 30)	See Art. 19	See Arts. 20, 21

TABLE VII—Continued—JUDICIAL DEPARTMENT

	Highest Court				Provisions Regarding Lower Courts
	Name	Method of Selecting	Tenure of Office	Power to Determine Constitutionality of Legislation	
Switzerland	Federal Tribunal (Art. 106)	Selected by Federal Assembly (Art. 107)	No constitutional provision	Yes (Art. 113)	No constitutional provision
Syria	See Art. 34	See Art. 34	Irremovable See Art. 34	See Art. 34	See Art. 34
Thailand	As established by law (Sec. 161)	King and Judicial Committee (Secs. 166, 167)	As established by law (Secs. 161, 167)	Parliament and special Judicial Committee to interpret (Secs. 108, 177-179)	Secs. 161-167
Turkey	Supreme Court (Art. 61)	Eleven members elected from and by the Court of Cassation; ten members elected from and by Council of State (Art. 62)	Not stated	No constitutional provision	Art. 63
Ukrainian S.S.R.	Supreme Court (Arts. 84, 86)	Elected by Supreme Soviet (Art. 87)	5 Years (Art. 87)	This function belongs to the Presidium (Art. 80)	Art. 84
Union of South Africa	Supreme Court of South Africa (Art. 95)	Appointed by Governor-General in Council (Arts. 100, 113)	Life (Art. 101)	No constitutional provision	Arts. 98-110
Union of Soviet Socialist Republics	Supreme Court of the U.S.S.R. (Arts. 102, 104)	Elected by Supreme Soviet (Art. 105)	5 Years (Art. 105)	No constitutional provision	Arts. 102-117
United Kingdom of Great Britain and Northern Ireland	House of Lords	Lord High Chancellor and 7 Lords of Appeal in Ordinary appointed by the Crown, together with peers who have held high judicial office.	Life	No. See Maibland, p. 201	By Statute and Custom
United States of America	Supreme Court (Art. III)	Appointed by the President with advice and consent of Senate (Art. II, Sec. 2)	During good behavior (Art. III, Sec. 1)	So interpreted * and practised, though no express constitutional power	Art. III, Sec. 1
Uruguay	Supreme Court (Arts. 200-213)	Selected by General Assembly (Art. 209)	10 Years (Art. 210)	Yes (Art. 226)	Art. 200
Vatican City	Supreme Tribunal of the Signature (Const. Law, Art. 10)	Appointed by the Pope (Art. 10)	No constitutional provision	No constitutional provision	Const. Law Art. 10

	Highest Court				Provisions Regarding Lower Courts
	Name	Method of Selecting	Tenure of Office	Power to Determine Constitutionality of Legislation	
Venezuela ¹⁰	Supreme Court of Justice (Art. 211)	Elected by Congress (Art. 210, Const. 1947; Art. 121, Const. 1986)	5 Years (Art. 210)	Yes (Art. 220)	Art. 211
Yemen	See Note 1	See Note 1	See Note 1	See Note 1	See Note 1
Yugoslavia	Supreme Court of the FPRY (Art. 116)	Elected by the People's Assembly (Art. 121)	Judges may be "released from their functions by the People's Assembly" (Art. 121)	No constitutional provision	Art. 115

¹ Information not available.

² With appeals in some instances to the Judicial Committee of the Privy Council of the House of Lords.

³ Under Constitution of 1920 as amended in 1920.

⁴ No express constitutional provision for it.

⁵ Constitution merely says that the organization of the courts shall be regulated by law (Art. 60).

⁶ Germany still under military occupation at time of our going to press. See Summary and Appendix for draft constitutions of both Eastern and Western Germany.

⁷ References are to draft Constitution printed in Appendix.

⁸ Not determined at time of our going to press.

⁹ *Marbury v. Madison*, 5 Cranch, 137 (1803).

¹⁰ References are to Constitution of 1947. The 1936 Constitution as amended in 1945 provides for a Federal Court of Cassation elected by Congress for terms of five years (Arts. 120, 127), with power to determine the constitutionality of legislation (Art. 128);

provisions regarding lower courts in Arts. 123-125.

TABLE VIII
AREA AND POPULATION

	Area ¹ (In Square Miles)	Population ¹
Afghanistan	250,000	12,000,000
Albania	10,629	1,200,000
Andorra	191	5,500
Argentina	1,079,965	16,107,936
Australia	2,974,581	7,580,820
Austria	32,369	7,000,000
Belgium	11,775	8,400,000
Bhutan	18,000	300,000
Bolivia	416,040	3,850,000
Brazil	3,286,170	47,550,000
Bulgaria	42,808	7,000,000
Burma	261,610	16,900,000
Byelorussian SSR	89,000	10,386,000
Canada ²	3,690,410	12,883,000
Ceylon	25,332	6,890,000
Chile	296,717	5,500,000
China	4,300,000	470,000,000
Colombia	447,536	10,500,000
Costa Rica	23,000	771,503
Cuba	44,164	5,130,000
Czechoslovakia	49,358	12,171,000
Denmark	16,575	4,146,000
Dominican Republic	19,332	2,151,000
Ecuador	175,330	3,400,000
Egypt	383,000	19,090,000
El Salvador	13,176	2,000,000
Ethiopia	350,000	15,000,000
Finland	130,837	4,000,000
France	212,659	41,500,000
Germany	143,000	67,000,000
Greece	51,843	7,500,000
Guatemala	45,452	3,600,000
Haiti	10,204	3,500,000
Honduras	45,000	1,200,000
Hungary	35,875	8,500,000
Iceland	30,709	135,000
India	1,246,880	337,000,000
Indonesia	218,365	55,710,000
Iran	628,000	16,550,000
Iraq	143,000	4,800,000
Ireland	27,137	3,000,000
Israel	10,000	2,000,000
Italy	119,764	45,800,000
Japan	147,492	80,000,000
Jordan	34,740	400,000

	Area ¹ (In Square Miles)	Population ¹
Korea	85,246	27,000,000
Lebanon	3,600	1,160,000
Liberia	43,000	1,600,000
Liechtenstein	65	11,102
Luxembourg	999	300,000
Mexico	763,944	20,000,000
Monaco	0.607	25,000
Mongol Peoples Republic	25,000	1,000,000
Nepal	54,000	7,000,000
Netherlands	13,396	9,870,000
New Zealand	103,934	1,864,784
Nicaragua	57,145	1,100,000
Norway	124,556	3,164,000
Pakistan	350,000	82,000,000
Panama	28,575	631,637
Paraguay	150,515	1,250,000
Peru	482,258	8,000,000
Philippines	114,830	19,000,000
Poland	120,818	23,930,000
Portugal	35,466	8,312,000
Rumania	91,584	15,700,000
San Marino	38	14,545
Saudi Arabia	350,000	6,000,000
Spain	196,607	27,500,000
Sweden	173,347	6,800,000
Switzerland	15,737	4,500,000
Syria	54,000	3,000,000
Thailand	225,000	18,147,000
Turkey	294,493	19,000,000
Ukrainian SSR	215,000	40,000,000
Union of South Africa	472,550	11,400,000
Union of Soviet Socialist Republics	8,473,444	211,000,000
United Kingdom of Great Britain and Northern Ireland	94,300	48,000,000
United States of America	3,022,387	145,000,000
Uruguay	72,153	2,150,000
Vatican City	0.16 (108.7 Acres)	1,025
Venezuela	352,150	4,300,000
Yemen	80,000	4,000,000
Yugoslavia	95,558	16,000,000
Total Average	about 38,000,000 about 450,000	about 2,250,000,000 about 26,700,000

¹ Estimated on basis of best available information—frequently excludes colonies and dependencies. Plans for a 1950 census, simultaneously in all of the 23 countries of the western hemisphere, were announced by the U. S. Bureau of Census on April 3, 1946.

² Including Newfoundland, comprising also part of Labrador added March 31, 1949.

APPENDIX

CONSTITUTIONS OF NATIONS

APPENDIX

Containing draft Constitutions of Germany, India and Israel; data regarding the Baltic States and Indonesia; and notes on the National Coats-of-Arms.

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I

**DRAFT NATIONAL CONSTITUTIONS
NOT COMPLETELY IN FORCE AT
TIME OF OUR GOING TO PRESS**



BASIC LAW for the FEDERAL REPUBLIC OF GERMANY¹

(This Basic Law for the Federal Republic of Germany, popularly known as the "Bonn Constitution," was adopted at Bonn by a Parliamentary Council of 65 German political leaders, meeting from September 1948 to May 1949 and acting on behalf of about 46,000,000 Germans of the Western zones of Germany. It is printed in this annex rather than in the original text because it does not as of the time of our going to press occupy the status of a constitution of a sovereign nation. Germany and its various sectors are still subject to the rule of the allied powers. The document prepared at about the same time for Eastern Germany is also printed in this annex as page 627.)

CONSCIOUS of its responsibility before God and mankind, filled with the resolve to preserve its national and political unity and to serve world

¹ Agreed Anglo-American translation. See Dept. of State publication 3526; European and British Commonwealth Series 8, released June 1949.

peace as an equal partner in a united Europe, the German people in the Laender Baden, Bavaria, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern has, by virtue of its constituent power, enacted this Basic Law of the Federal Republic of Germany to give a new order to political life for a transitional period.

It acted also on behalf of those Germans to whom participation was denied.

The entire German people is called upon to accomplish, by free self-determination, the unity and freedom of Germany.

I

Basic Rights

Art. 1. (1) The dignity of man shall be inviolable. To respect and protect it shall be the duty of all state authority.

(2) The German people therefore acknowledges inviolable and inalienable human rights as the basis of every human community, of peace and of justice in the world.

(3) The following basic rights shall be binding as directly valid law on legislation, administration and judiciary.

Art. 2. (1) Everyone shall have the right to the free development of his personality, insofar as he does not infringe the rights of others or offend against the constitutional order or the moral code.

(2) Everyone shall have the right to life and physical inviolability. The freedom of the individual shall be inviolable. These rights may be interfered with only on the basis of a law.

Art. 3. (1) All men shall be equal before the law.

(2) Men and women shall have equal rights.

(3) No one may be prejudiced or privileged because of his sex, descent, race, language, homeland and origin, faith or his religious and political opinions.

Art. 4. (1) Freedom of faith and conscience and freedom of religious and ideological (*weltanschauliche*) profession shall be inviolable.

(2) Undisturbed practice of religion shall be guaranteed.

(3) No one may be compelled against his conscience to perform war service as a combatant. Details shall be regulated by a federal law.

Art. 5. (1) Everyone shall have the right freely to express and to disseminate his opinion through speech, writing and illustration and, without hindrance, to instruct himself from generally accessible sources. Freedom of the press and freedom of reporting by radio and motion pictures shall be guaranteed. There shall be no censorship.

(2) These rights shall be limited by the provisions of the general laws, the legal regulations for the protection of juveniles and by the right of personal honour.

(3) Art and science, research and teaching shall be free. Freedom of teaching shall not absolve from loyalty to the constitution.

Art. 6. (1) Marriage and family shall be under the special protection of the state.

(2) The care and upbringing of children shall be the natural right of parents and the supreme duty incumbent upon them. The state shall watch over their activity.

(3) Children may be separated from the family against the will of those entitled to bring them up only on a legal basis if those so entitled fail to do their duty or if, on other grounds, a danger of the children being neglected arises.

(4) Every mother shall have a claim to the protection and care of the community.

(5) Illegitimate children shall, through legislation, be given the same conditions for their physical and spiritual development and their position in society as legitimate children.

Art. 7. (1) The entire educational system shall be under the supervision of the state.

(2) Those entitled to bring up the child shall have the right to decide whether it shall receive religious instruction.

(3) Religious instruction shall form part of the curriculum in the state schools with the exception of non-confessional schools. Religious instruction shall, without prejudice to the state's right of supervision, be given according to the principles of the religious societies. No teacher may be obliged against his will to give religious instruction.

(4) The right to establish private schools shall be guaranteed. Private schools as substitute for state schools shall require the sanction of the state and shall be subject to Land legislation. The sanction must be given if the private schools, in their educational aims and facilities, as well as in the scholarly training of their teaching personnel, are not inferior to the state schools and if a separation of the pupils according to the means of the parents is not encouraged. The sanction must be withheld if the economic and legal status of the teaching personnel is not sufficiently assured.

(5) A private elementary school shall be permitted only if the educational administration recognizes a specific pedagogic interest or, at the request of those entitled to bring up children, if it is to be established as a general community school (*Gemeinschaftsschule*), as a confessional or ideological school or if a state elementary school of this type does not exist in the Gemeinde.

(6) Preparatory schools shall remain abolished.

Art. 8. (1) All Germans shall have the right, without prior notification or permission, to assemble peacefully and unarmed.

(2) For open air meetings this right may be restricted by legislation or on the basis of a law.

Art. 9. (1) All Germans shall have the right to form associations and societies.

(2) Associations, the objects or activities of which conflict with the criminal laws or which are directed against the constitutional order or the concept of international understanding, shall be prohibited.

(3) The right to form associations to safeguard and improve working and economic conditions shall be guaranteed to everyone and to all professions. Agreements which seek to restrict or hinder this right shall be null and void; measures directed to this end shall be illegal.

Art. 10. Secrecy of the mail as well as secrecy of the post and telecommunications shall be inviolable. Restrictions may be ordered only on the basis of a law.

Art. 11. (1) All Germans shall enjoy freedom of movement throughout the federal territory.

(2) This right may be restricted only by legislation and only for the cases in which an adequate basis of existence is absent and, as a result, particular burdens would arise for the general public or in which it is necessary for the protection of juveniles from neglect, for combatting the danger of epidemics or in order to prevent criminal acts.

Art. 12. (1) All Germans shall have the right freely to choose their occupation, place of work and place of training. The practice of an occupation may be regulated by legislation.

(2) No one may be compelled to perform a particular kind of work except within the framework of an established general compulsory public service equally applicable to everybody.

(3) Forced labour shall be admissible only in the event of imprisonment ordered by a court.

Art. 13. (1) The dwelling shall be inviolable.

(2) Searches may be ordered only by a judge or in the event of imminent danger by other authorities provided by law and may be carried out only in the form prescribed therein.

(3) Interventions and restrictions may otherwise be undertaken only to avert a common danger or mortal danger to individuals and, on the basis of a law, also to prevent imminent danger to public safety and order, especially for the relief of the housing shortage, combatting the danger of epidemics or protecting juveniles exposed to dangers.

Art. 14. (1) Property and the right of inheritance shall be guaranteed. The contents and limitations shall be determined by legislation.

(2) Property shall involve obligations. Its use shall simultaneously serve the general welfare.

(3) Expropriation shall be admissible only for the wellbeing of the general public. It may be effected only by legislation or on the basis of a law which shall regulate the nature and extent of compensation. The compensation shall be determined after just consideration of the interests of the general public and the participants. Regarding the extent of compensation, appeal may be made to the ordinary courts in case of dispute.

Art. 15. Land and landed property, natural resources and means of production may, for the purpose of socialization, be transferred to public ownership or other forms of publicly controlled economy by way of a law which shall regulate the nature and extent of compensation. For the compensation, Article 14, paragraph (3), sentences 3 and 4, shall apply appropriately.

Art. 16. (1) No one may be deprived of his German citizenship. The loss of citizenship may occur only on the basis of a law and, against the will of the person concerned, only if the person concerned is not rendered stateless thereby.

(2) No German may be extradited to a foreign country. The politically persecuted shall enjoy the right of asylum.

Art. 17. Everyone shall have the right, individually or jointly with others, to address written requests or complaints to the competent authorities and to the popular representative bodies.

Art. 18. Whoever abuses the freedom of expression of opinion, in particular the freedom of the press (Article 5, paragraph (1)), the freedom of teaching (Article 5, paragraph (3)), the freedom of assembly (Article

8), the freedom of association (Article 9), the secrecy of mail, post and telecommunications (Article 10), property (Article 14), or the right of asylum (Article 16, paragraph (2)), in order to attack the free, democratic basic order, shall forfeit these basic rights. The forfeiture and its extent shall be pronounced by the Federal Constitutional Court.

Art. 19. (1) Insofar as according to this Basic law a basic right may be restricted by legislation or on the basis of a law, the law must apply in general and not solely to the individual case. Furthermore, the law must name the basic right, indicating the Article.

(2) In no case may a basic right be affected in its basic content.

(3) The basic rights shall also apply to juridical persons within the country insofar as, according to their nature, they may be applied to such persons.

(4) Should any person's rights be infringed by public authority, he may appeal to the courts. Insofar as another authority is not competent, the appeal shall go to the ordinary courts.

II

The Federation and the Laender

Art. 20. (1) The Federal Republic of Germany is a democratic and social federal state.

(2) All state authority emanates from the people. It shall be exercised by the people in elections and plebiscites and by means of separate legislative, executive and judicial organs.

(3) Legislation shall be limited by the constitution, the executive and the administration of justice by legislation and the law.

Art. 21. (1) The parties shall participate in forming the political will of the people. They can be freely formed. Their internal organization must conform to democratic principles. They must publicly account for the sources of their funds.

(2) Parties which, according to their aims and the behaviour of their members, seek to impair or abolish the free and democratic basic order or to jeopardize the existence of the Federal Republic of Germany, shall be unconstitutional. The Federal Constitutional Court shall decide on the question of unconstitutionality.

(3) Details shall be regulated by federal legislation.

Art. 22. The federal flag shall be black-red-gold.

Art. 23. For the time being, this Basic Law shall apply in the territory of the Laender Baden, Bavaria, Bremen, Greater Berlin, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern. It shall be put into force for other parts of Germany on their accession.

Art. 24. (1) The Federation may, by legislation, transfer sovereign powers to international institutions.

(2) In order to preserve peace, the Federation may join a system of mutual collective security; in doing so it will consent to those limitations of its sovereign powers which will bring about and secure a peaceful and lasting order in Europe and among the nations of the world.

(3) For the settlement of international disputes, the Federation will join a general, comprehensive, obligatory system of international arbitration.

Art. 25. The general rules of international law shall form part of federal law. They shall take precedence over the laws and create rights and duties directly for the inhabitants of the federal territory.

Art. 26. (1) Activities tending to disturb or undertaken with the intention of disturbing the peaceful relations between nations, and especially preparing for aggressive war, shall be unconstitutional. They shall be made subject to punishment.

(2) Weapons designed for warfare may be manufactured, transported or marketed only with the permission of the Federal Government. Details shall be regulated by a federal law.

Art. 27. All German merchantmen shall form a unified merchant marine.

Art. 28. (1) The constitutional order in the Laender must conform to the principles of the republican, democratic and social state based on the rule of law (*Rechtsstaat*) within the meaning of this Basic Law. In the Laender, Kreise and Gemeinden the people must have a representative assembly resulting from universal, direct, free, equal and secret elections. In Gemeinden, the Parish Meeting may take the place of an elected body.

(2) The Gemeinden must be guaranteed the right to regulate under their own responsibility all the affairs of the local community in accordance with the laws. The Gemeindeverbände also shall have the right of self-government within the limits of their legal sphere of functions and in accordance with the laws.

(3) The Federation shall guarantee that the constitutional order of the Laender shall correspond to the basic rights and the provisions of paragraphs (1) and (2).

Art. 29. (1) The federal territory shall be reorganized by a federal law with due regard to regional unity, historical and cultural connections, economic expediency and social structure. The reorganization shall create Laender which by their size and potentiality are able to fulfil efficiently the functions incumbent upon them.

(2) In areas which, in the reorganization of Laender after 8 May 1945, joined another Land without plebiscite, a certain change in the decision made concerning this subject may be demanded by popular initiative within one year after the coming into force of the Basic Law. The popular initiative shall require the consent of one-tenth of the population qualified to vote in Landtag elections. Should the popular initiative take place, the Federal Government must, in the draft law regarding the reorganization, include a provision determining to which Land the area concerned shall belong.

(3) After adoption of the law, in each area which it is intended should join another Land, that part of the law which concerns this area must be submitted to a referendum. If a popular initiative takes place in accordance with paragraph (2), a referendum must always be carried out in the area concerned.

(4) Insofar as thereby the law is rejected at least in one area, it must be reintroduced in the Bundestag. After re-enactment, it shall require accordingly acceptance by referendum in the entire federal territory.

(5) In a referendum, the majority of the votes cast shall decide.

(6) The procedure shall be regulated by a federal law. The reorganization shall be regulated before the expiry of three years after promulgation of the Basic Law and, should it be necessary in consequence of

the accession of another part of Germany, within two years after such accession.

(7) The procedure regarding any other change in the existing territory of the Laender shall be regulated by a federal law, which shall require the approval of the Bundesrat and of the majority of the members of the Bundestag.

Art. 30. The exercise of the powers of the state and the performance of state functions shall be the concern of the Laender, insofar as this Basic Law does not otherwise prescribe or permit.

Art. 31. Federal law shall supersede Land law.

Art. 32. (1) The maintenance of relations with foreign states shall be the affair of the Federation.

(2) Before the conclusion of a treaty affecting the special conditions of a Land, the Land must be consulted sufficiently early.

(3) Insofar as the Laender are competent to legislate, they may, with the approval of the Federal Government, conclude treaties with foreign states.

Art. 33. (1) Every German shall have in each Land the same civil (*staatsbürgerliche*) rights and duties.

(2) Every German shall have equal access to any public office in accordance with his suitability, ability and professional achievements.

(3) Enjoyment of municipal and national civil (*bürgerliche und staatsbürgerliche*) rights, access to public offices, as well as the rights acquired in the public service, shall be independent of religious confession. No one may be prejudiced on account of his adherence or non-adherence to a confession or ideology (*Weltanschauung*).

(4) The exercise of state authority (*hoheitsrechtliche Befugnisse*) shall normally be assigned as permanent functions to members of the public service who are in a status of service and loyalty under public law.

(5) Law regarding the public service shall be regulated with due regard to the established principles concerning the legal status of professional officials (*Berufsbeamtentum*).

Art. 34. If any person, in exercising the duties of a public office entrusted to him, violates his official obligation towards a third party, liability shall in principle rest with the state or his employing authority. In the case of wilful intent or gross negligence, the right of recourse shall be reserved. In respect to the claim for damages and in respect to the right of recourse, appeal to the ordinary courts must not be excluded.

Art. 35. All federal and Land authorities shall render each other mutual legal and official assistance.

Art. 36. In the highest federal authorities civil servants (*Beamte*) from all Laender shall be employed in equitable ratio. Persons employed in the other federal offices shall normally be selected from the Land in which they are employed.

Art. 37. (1) If a Land fails to fulfil its obligations towards the Federation under the Basic Law or any other federal law, the Federal Government may, with the approval of the Bundesrat, take the necessary measures to force the Land by way of federal compulsion to fulfil its duties.

(2) In order to carry out federal compulsion, the Federal Government or its commissioner shall have the right to give orders to all Laender and their authorities.

III

The Bundestag

Art. 38. (1) The deputies of the German Bundestag shall be elected by the people in universal, free, equal, direct and secret elections. They shall be representatives of the whole people, not bound to orders and instructions and subject only to their conscience.

(2) Any person who has reached the age of 21 years shall be eligible to vote and any person who has reached the age of 25 years shall be eligible for election.

(3) Details shall be determined by a federal law.

Art. 39. (1) The Bundestag shall be elected for a term of four years. Its electoral period shall end four years after its first assembly or with its dissolution. The new election shall take place in the last three months of the electoral period; in the case of its dissolution, at the latest after 60 days.

(2) The Bundestag shall meet not later than thirty days after the election, nevertheless not before the end of the electoral period of the previous Bundestag.

(3) The Bundestag shall determine the closure and resumption of its sessions. The President of the Bundestag may convene it at an earlier date. He shall be obliged to do so if one-third of the members, the Federal President or the Federal Chancellor so demand.

Art. 40. (1) The Bundestag shall elect its President, his deputies and its clerks. It shall draw up its Standing Orders (Rules of Procedure).

(2) The President shall have charge of, and exercise police power in, the Bundestag building. No search or seizure may take place without his permission in the precincts of the Bundestag.

Art. 41. (1) The review of elections shall be the responsibility of the Bundestag. It shall decide also whether a deputy has lost his membership in the Bundestag.

(2) An appeal to the Federal Constitutional Court against a decision of the Bundestag shall be admissible.

(3) Details shall be regulated by a federal law.

Art. 42. (1) Meetings of the Bundestag shall be public. Upon a motion of one-tenth of its members or upon a motion of the Federal Government the public may, by a two-thirds majority, be excluded. A decision on the motion will be made in a closed meeting.

(2) Decisions of the Bundestag shall require the majority of votes cast insofar as the Basic Law does not determine otherwise. Standing Orders (Rules of Procedure) may admit exceptions in the case of elections to be held by the Bundestag.

(3) Accurate reports of the public meetings of the Bundestag and of its committees shall be privileged.

Art. 43. (1) The Bundestag and its committees may demand the presence of any member of the Federal Government.

(2) The members of the Bundesrat and of the Federal Government as well as the persons commissioned by them shall have access to all meetings of the Bundestag and its committees. They must be heard at any time.

Art. 44. (1) The Bundestag shall have the right and, upon the motion of one-fourth of its members, the obligation to set up an investigating

committee, which shall take the necessary evidence in public proceedings. The public may be excluded.

(2) The provisions relating to criminal procedure shall apply appropriately to the investigations. Secrecy of the mail, post and telecommunications shall remain unaffected.

(3) The courts and administrative authorities shall be obliged to provide legal and official assistance.

(4) The decisions of the investigating committees shall not be subject to judicial review. The courts shall be free to evaluate and judge the facts on which the investigation is based.

Art. 45. (1) The Bundestag shall appoint a Standing Committee which shall safeguard the rights of the Bundestag vis-à-vis the Federal Government in the interval between two electoral periods. The Standing Committee shall also have the rights of an investigating committee.

(2) Wider powers, in particular the right to legislate, to elect the Federal Chancellor and to impeach the Federal President, shall not be within the province of the Standing Committee.

Art. 46. (1) A deputy may at no time be subject to legal or disciplinary action or otherwise be called to account outside the Bundestag because of his vote or any utterance in the Bundestag or in one of its committees. This shall not apply in the case of defamatory insults.

(2) A deputy may be called to account or arrested for a punishable offence only with the permission of the Bundestag, unless he be apprehended while committing the offence or in the course of the following day.

(3) Furthermore, the permission of the Bundestag shall be required in respect of any other restriction of the personal freedom of a deputy or for the initiating of proceedings against a deputy in accordance with Article 18.

(4) Any criminal proceedings and any proceedings in accordance with Article 18 against a deputy, any detention and any other restriction of his personal freedom shall be suspended upon the demand of the Bundestag.

Art. 47. Deputies shall be entitled to refuse to give evidence concerning persons who have entrusted facts to them in their capacity as deputies or to whom they in this capacity have entrusted facts, as well as concerning these facts themselves. Insofar as this right of refusal to give evidence extends, the seizure of documents shall be inadmissible.

Art. 48. (1) Any person seeking election to the Bundestag shall have a claim to the leave necessary for his election campaign.

(2) No one may be prevented from assuming or exercising the office of a deputy. Notice of dismissal or dismissal for this reason shall be inadmissible.

(3) Deputies shall have a claim to adequate remuneration, which shall ensure their independence. They shall have the right to free travel in all publicly owned transport. Details shall be regulated by a federal law.

Art. 49. Articles 46, 47 and 48, paragraphs (2) and (3) shall apply to the members of the Praesidium and the Standing Committee as well as to their chief deputies also in the interval between two electoral periods.

IV

The Bundesrat

Art. 50. The Laender shall participate through the medium of the Bundesrat in the legislation and the administration of the Federation.

Art. 51. (1) The Bundesrat shall consist of members of the Governments of the Laender which shall appoint and recall them. They may be represented by other members of their Governments.

(2) Each Land shall have at least three votes; Laender with more than two million inhabitants shall have four, Laender with more than six million inhabitants shall have five votes.

(3) Every Land may delegate as many members as it has votes. The votes of each Land may be given only as a block vote and only by members present or their representatives.

Art. 52. (1) The Bundesrat shall elect its President for one year.

(2) The President shall convene the Bundesrat. He must convene it if the representatives of at least two Laender or the Federal Government so demand.

(3) The Bundesrat shall take its decisions with at least the majority of its votes. It shall draw up its Standing Orders (Rules of Procedure). It shall meet in public. The public may be excluded.

(4) Other members or representatives of the Governments of the Laender may belong to the committees of the Bundesrat.

Art. 53. The members of the Federal Government shall have the right, and on demand the obligation, to participate in the debates of the Bundesrat and its committees. They must be heard at any time. The Bundesrat must be kept currently informed by the Federal Government on the conduct of federal affairs.

V

The Federal President

Art. 54. (1) The Federal President shall be elected, without discussion, by the Federal Convention. Every German who is eligible to vote in elections for the Bundestag and has reached the age of 40 years shall be eligible for election.

(2) The term of office of the Federal President shall be five years. Immediate re-election shall be admissible only once.

(3) The Federal Convention shall consist of the members of the Bundestag and an equal number of members elected by the popular representative bodies of the Laender according to the principles of proportional representation.

(4) The Federal Convention shall meet not later than thirty days before the expiry of the term of office of the Federal President, in the case of premature termination not later than thirty days after this date. It shall be convened by the President of the Bundestag.

(5) After the expiry of the electoral period, the time limit of paragraph (4), sentence 1, shall begin with the first meeting of the Bundestag.

(6) The person who has received the votes of the majority of the members of the Federal Convention shall be elected. If such majority is not obtained by any candidate in two ballots, the person who receives most votes in a further ballot shall be elected.

(7) Details shall be regulated by a federal law.

Art. 55. (1) The Federal President may be a member neither of the Government nor of a legislative body of the Federation or a Land.

(2) The Federal President may not hold any other salaried office, carry on a trade or practise a profession or belong to the management or supervisory board of a profit-making enterprise.

Art. 56. On assuming office, the Federal President shall take the following oath in the presence of the assembled members of the Bundestag and the Bundesrat:

"I swear that I shall dedicate my strength to the well-being of the German people, enhance what is to its advantage, ward off what might harm it, uphold and defend the Basic Law and the laws of the Federation, fulfil my duties conscientiously and do justice to every man. So help me God."

The oath may also be taken without the religious asseveration.

Art. 57. In the event of the inability of the Federal President to perform the duties of his office or in the event of a premature vacancy in the office, the functions of the Federal President shall be exercised by the President of the Bundesrat.

Art. 58. Orders and instructions of the Federal President shall require for their validity the counter-signature of the Federal Chancellor or the competent Federal Minister. This shall not apply to the appointment and dismissal of the Federal Chancellor, the dissolution of the Bundestag in accordance with Article 63 and a request in accordance with Article 69, paragraph (3).

Art. 59. (1) The Federal President shall represent the Federation in matters concerning international law. He shall conclude treaties with foreign states on behalf of the Federation. He shall accredit and receive the envoys.

(2) Treaties which regulate the political relations of the Federation or refer to matters of federal legislation shall require, in the form of a federal law, the approval or the participation of the corporations competent at the time for federal legislation. For administrative agreements the provisions concerning the federal administration shall apply appropriately.

Art. 60. (1) The Federal President shall appoint and dismiss the federal judges and the federal officials unless otherwise determined by law.

(2) He shall exercise the right of pardon on behalf of the Federation in individual cases.

(3) He may delegate these powers to other authorities.

(4) Article 46, paragraphs (2) to (4), shall apply appropriately to the Federal President.

Art. 61. (1) The Bundestag or the Bundesrat may impeach the Federal President before the Federal Constitutional Court on account of wilful violation of the Basic Law or any other federal law. The motion for impeachment must be brought in by at least one-quarter of the members of the Bundestag or one-quarter of the votes of the Bundesrat. The decision to impeach shall require the majority of two-thirds of the members of the Bundestag or of two-thirds of the votes of the Bundesrat. The prosecution shall be conducted by a person commissioned by the impeaching body.

(2) If the Federal Constitutional Court finds that the Federal President is guilty of a wilful violation of the Basic Law or of any other federal law, it may declare him to have forfeited his office. After the institution of impeachment proceedings, the Federal Constitutional Court may, by interim order, determine that the Federal President is prevented from performing the duties of his office.

VI

The Federal Government

Art. 62. The Federal Government shall consist of the Federal Chancellor and the Federal Ministers.

Art. 63. (1) The Federal Chancellor shall be elected, without discussion, by the Bundestag on the proposal of the Federal President.

(2) The person who has received the votes of the majority of the members of the Bundestag shall be elected. He shall be appointed by the Federal President.

(3) If the person nominated is not elected, the Bundestag may, within fourteen days after the ballot, elect a Federal Chancellor by more than one half of its members.

(4) If the Federal Chancellor is not elected within this time limit a new ballot shall take place immediately, in which the person who receives most votes shall be elected. If the person elected receives the votes of the majority of the members of the Bundestag the Federal President must, within 7 days after the election, appoint him. If the person elected does not obtain this majority the Federal President must, within seven days, either appoint him or dissolve the Bundestag.

Art. 64. (1) The Federal Ministers shall be appointed and dismissed by the Federal President upon the proposal of the Federal Chancellor.

(2) The Federal Chancellor and the Federal Ministers, on assuming office, shall take before the Bundestag the oath provided in Article 56.

Art. 65. The Federal Chancellor shall determine and assume responsibility for general policy. Within the limits of this general policy, each Federal Minister shall direct his department individually and on his own responsibility. The Federal Government shall decide on differences of opinion between the Federal Ministers. The Federal Chancellor shall conduct business in accordance with Standing Orders (Rules of Procedure) adopted by the Federal Government and approved by the Federal President.

Art. 66. The Federal Chancellor and the Federal Ministers may not hold any other salaried office, carry on a trade or practise a profession or belong to the management or, without the approval of the Bundestag, to the supervisory board of a profit-making enterprise.

Art. 67. (1) The Bundestag may express its lack of confidence in the Federal Chancellor only by electing a successor with the majority of its members and submitting a request to the Federal President for the dismissal of the Federal Chancellor. The Federal President must comply with the request and appoint the person elected.

(2) There must be an interval of 48 hours between the motion and the election.

Art. 68. (1) If a motion of the Federal Chancellor to receive a vote of confidence does not obtain the support of the majority of the members of the Bundestag, the Federal President may, upon the proposal of the Federal Chancellor, dissolve the Bundestag within 21 days. The right of dissolution shall lapse as soon as the Bundestag, with the majority of its member, elects another Federal Chancellor.

(2) There must be an interval of 48 hours between the introduction of, and the vote on, the motion.

Art. 69. (1) The Federal Chancellor shall appoint a Federal Minister as his deputy.

(2) The office of the Federal Chancellor or of a Federal Minister shall end in any case with the assembly of a new Bundestag, the office of a Federal Minister also with any other termination of the office of the Federal Chancellor.

(3) At the request of the Federal President, the Federal Chancellor, [and] at the request of the Federal Chancellor or of the Federal President a Federal Minister, shall be obliged to carry out the duties of his office until the appointment of his successor.

VII

The Legislation of the Federation

Art. 70. (1) The Laender shall have the right of legislation insofar as this Basic Law does not accord legislative powers to the Federation.

(2) The division of competence between the Federation and the Laender shall be determined in accordance with the provisions of this Basic Law concerning exclusive and concurrent legislation.

Art. 71. In the field of exclusive legislation of the Federation, the Laender shall have powers of legislation only if, and so far as, they are expressly so empowered in a federal law.

Art. 72. (1) In the field of concurrent legislation, the Laender shall have powers of legislation so long and so far as the Federation makes no use of its legislative right.

(2) The Federation shall have legislative rights in this field insofar as a necessity for regulation by federal law exists because:

1. A matter cannot be effectively regulated by the legislation of individual Laender, or
2. The regulation of a matter by a Land law could prejudice the interests of other Laender or of the Laender as a whole, or
3. The preservation of legal or economic unity demands it, in particular the preservation of uniformity of living conditions extending beyond the territory of an individual Land.

Art. 73. The Federation shall have exclusive legislation on:

1. Foreign affairs;
2. Citizenship of the Federation;
3. Freedom of movement, passports, immigration, emigration and extradition;
4. Currency, money and coinage, weights and measures and regulation of time and calendar;
5. The unity of customs and commercial territory, commercial and navigation agreements, the freedom of traffic in goods and payments with foreign countries, including customs and frontier protection;
6. Federal railways and air traffic;
7. Post and telecommunications;
8. The legal status of persons in the employment of the Federation and of public law corporations under direct supervision of the Federal Government;
9. Trade marks, copyright and publishing rights;
10. Co-operation of the Federation and the Laender in the criminal police and in matters concerning the protection of the constitution, the establishment of a Federal Office of Criminal Police, as well as the combatting of international crime;
11. Statistics for federal purposes.

Art. 74. Concurrent legislation shall extend to the following fields:

1. Civil law, criminal law and execution of sentences, constitution of courts, court procedure, the bar, notaries and legal advice (*Rechtsberatung*);
2. Census and registry matters;
3. Association and assemblies;
4. The right of sojourn and settlement of aliens;
5. The protection of German works of art against removal abroad;
6. Matters relating to refugees and expellees;
7. Public welfare;
8. Citizenship of the Laender;
9. War damages and compensation (*Wiedergutmachung*);
10. Provisions for war-disabled persons and surviving dependents, the welfare of former prisoners of war and the care of war graves;
11. Law relating to the economy (mining, industry, power supply, crafts, trades, commerce, banking and stock exchanges, private insurances);
12. Labour law, including the legal organization of enterprises, protection of workers and provision of employment, as well as social insurance including unemployment insurance;
13. The furtherance of scientific research;
14. The law regarding expropriation insofar as it is concerned with the matters enumerated in Articles 73 and 74;
15. Transfer of land and landed property, natural resources and means of production to public ownership or to other forms of publicly controlled economy;
16. Prevention of the abuse of economic power;
17. Promotion of agricultural and forestry production, safeguarding of food supply, import and export of agricultural and forestry products, deep-sea and coastal fisheries and coastal preservation;
18. Transactions in landed property, law concerning land and agricultural lease, housing, settlements and homesteads;
19. Measures against epidemic and infectious diseases affecting humans and animals, the licensing for medical and other healing professions and the healing trade and traffic in drugs, medicines, narcotics and poisons;
20. Protection relating to traffic in food and stimulants as well as in necessities of life, in fodder, in agricultural and forestry seeds and seedlings, and protection of trees and plants against diseases and pests;
21. Ocean and coastal shipping and aids to navigation, inland shipping, meteorological service, ocean channels and inland waterways used for general traffic;
22. Road traffic, motor transport and the construction and maintenance of highways used for long-distance transport;
23. Railways other than federal railways, except mountain railways.

Art. 75. The Federation shall have the right on the basis of Article 72 to issue general provisions concerning:

1. The legal status of persons employed in the public service of the Laender, Gemeinden and other public law corporations;
2. The general legal status of the press and motion pictures;
3. Hunting, protection of nature and care of the countryside;
4. Land distribution, regional planning and water conservation;
5. Matters relating to registration and identity cards.

Art. 76. (1) Bills shall be introduced in the Bundestag by the Federal Government, by members of the Bundestag or by the Bundesrat.

(2) Federal Government bills shall first be submitted to the Bundesrat. The Bundesrat shall have the right to give its opinion on these bills within three weeks.

(3) Bundesrat bills shall be submitted to the Bundestag by the Federal Government, which must add a statement of its own views.

Art. 77. (1) Federal laws shall be passed by the Bundestag. After their adoption, they shall, without delay, be submitted to the Bundesrat by the President of the Bundestag.

(2) The Bundesrat may, within two weeks of the receipt of the adopted bill, demand that a committee composed of members of the Bundestag and Bundesrat be convened to consider the bill jointly. The composition and the procedure of this committee shall be regulated by Standing Orders (Rules of Procedure), which shall be agreed by the Bundestag and shall require the approval of the Bundesrat. The members of the Bundesrat deputed to this committee shall not be bound by instructions. If the approval of the Bundesrat is required for a law, both the Bundestag and the Federal Government may demand that it be convened. Should the committee propose an alteration of the adopted bill, the Bundestag must take a new decision.

(3) Insofar as the approval of the Bundesrat is not required for a law the Bundesrat may, if the procedure in accordance with paragraph (2) is completed, within one week veto a law passed by the Bundestag. The time limit for a veto shall begin in the case of paragraph (2), last sentence, with the receipt of the bill as readopted by the Bundestag, in all other cases with the conclusion of the procedure preceding the committee provided for in paragraph (2).

(4) Should the veto be adopted by the majority of the votes of the Bundesrat, it may be rejected by a decision of the majority of the members of the Bundestag. Should the Bundesrat have adopted the veto by a majority of at least two-thirds of its votes, the rejection by the Bundestag shall require a majority of two-thirds, or at least the majority of the members of the Bundestag.

Art. 78. A law passed by the Bundestag shall be enacted if the Bundesrat approves, does not bring in a motion in accordance with Article 77, paragraph (2), does not impose a veto within the time limit of Article 77, paragraph (3), withdraws its veto or if the veto is overridden by the Bundestag.

Art. 79. (1) The Basic Law may be amended only by a law which expressly alters or adds to the text of the Basic Law.

(2) Such a law shall require the approval of two-thirds of the members of the Bundestag and two-thirds of the votes of the Bundesrat.

(3) An amendment to this Basic Law by which the organization of the Federation into Laender, the basic co-operation of the Laender in legislation or the basic principles laid down in Articles 1 and 20 are affected, shall be inadmissible.

Art. 80. (1) By means of a law the Federal Government, a Federal Minister of the Land Governments may be authorized to issue orders (*Rechtsverordnungen*). The contents, purpose and scope of such authorization shall be determined in the law. The legal basis must be cited in the order. If a law provides that an authorization may be further transferred, then the transfer of the authorization shall require an order (*Rechtsverordnung*).

(2) The approval of the Bundesrat shall be required, unless otherwise regulated by federal legislation, for orders (*Rechtsverordnungen*) of the Federal Government or a Federal Minister concerning principles and fees

for the use of the facilities of the Federal railways and post and telecommunications, concerning the construction and operation of railways, as well as those issued on the basis of federal laws which require the approval of the Bundesrat or which are executed by the Laender on behalf of the Federation or as their own concern.

Art. 81. (1) Should, in the case of Article 68, the Bundestag not be dissolved, the Federal President may, on the request of the Federal Government with the approval of the Bundesrat, declare a state of legislative emergency for a bill, if the Bundestag rejects it despite the fact that the Federal Government has declared it to be urgent. The same shall apply if a bill has been rejected despite the fact that the Federal Chancellor had combined with it the motion described in Article 68.

(2) If the Bundestag, after the state of legislative emergency has been declared, again rejects the bill or passes it in a version stated by the Federal Government to be unacceptable, the bill shall be deemed adopted insofar as the Bundesrat approves it. The same shall apply if the bill has not been passed by the Bundestag within four weeks after its resubmission.

(3) During the term of office of a Federal Chancellor, any other bill rejected by the Bundestag may be passed within a period of six months after the initial declaration of a state of legislative emergency in accordance with paragraphs (1) and (2). After expiry of the period, a further declaration of a state of legislative emergency shall be inadmissible during the term of office of the same Federal Chancellor.

(4) The Basic Law may neither be amended nor wholly or partially repealed or suspended by a law enacted in accordance with paragraph (2).

Art. 82. (1) Laws enacted according to the provisions of this Basic Law shall be engrossed by the Federal President with countersignature and published in the Federal Legal Gazette. Orders (*Rechtsverordnungen*) shall be signed by the issuing authority and, unless otherwise regulated by law, published in the Federal Legal Gazette.

(2) Each law and each order (*Rechtsverordnung*) shall specify the date of its coming into force. In the absence of such a provision, they shall come into force on the fourteenth day after the end of the day on which the Federal Legal Gazette has been issued.

VIII

The Execution of Federal Laws and the Federal Administration

Art. 83. The Laender shall execute the federal laws as their own concern insofar as this Basic Law does not otherwise determine or permit.

Art. 84. (1) If the Laender execute the federal laws as their own concern they shall regulate the establishment of the authorities and the administrative procedure insofar as federal laws approved by the Bundesrat do not otherwise determine.

(2) The Federal Government may, with the approval of the Bundesrat, issue general administrative provisions.

(3) The Federal Government shall exercise supervision to ensure that the Laender execute the federal laws in accordance with valid law. For this purpose the Federal Government may send commissioners to the highest Land authorities and, with their approval and, in the case of

this approval being refused with the approval of the Bundesrat, also to the subordinate authorities.

(4) Should deficiencies established by the Federal Government in the execution of federal laws in the Laender not be overcome then, on application by the Federal Government or the Land concerned, the Bundesrat shall decide whether the Land has infringed law. Against the decision of the Bundesrat, appeal may be made to the Federal Constitutional Court.

(5) For the execution of federal laws the Federal Government may, by federal legislation which shall require the approval of the Bundesrat, be granted in special cases the power to give individual instructions. They shall, except where the Federal Government considers the case urgent, be directed to the highest Land authorities.

Art. 85. (1) Where the execution of federal laws is delegated to the Laender by the Federation, the establishment of the authorities shall remain a concern of the Laender insofar as Federal legislation approved by the Bundesrat does not determine otherwise.

(2) The Federal Government may issue, with the approval of the Bundesrat, general administrative provisions. It may regulate the uniform training of officials and employees. The heads of the authorities at middle level shall be appointed with its agreement.

(3) The Land authorities shall be subject to the instructions of the highest competent federal authorities. Except where the Federal Government considers it urgent, the instructions shall be directed to the highest Land authorities. Execution of the instructions shall be ensured by the highest Land authority.

(4) Federal supervision shall extend to the legality and suitability of the manner of execution. The Federal Government may for this purpose demand submission of reports and documents and send commissioners to all authorities.

Art. 86. If the Federation executes the laws by direct federal administration or by public law corporations or institutions directly supervised by the Federation, the Federal Government shall, insofar as the law does not prescribe details, issue general administrative provisions. It shall regulate, insofar as it is not otherwise determined by the law, the establishment of the authorities.

Art. 87. (1) The foreign service, the federal finance administration, the federal railways, the federal postal services and, in accordance with the provisions of Article 89, the administration of the federal waterways and shipping, shall be conducted by a direct federal administration with its own lower level administrative offices. Federal frontier protection authorities and central offices for police information and communications, for the compilation of data for purposes concerning the protection of the constitution and for the criminal police may be established by federal legislation.

(2) Public law corporations directly supervised by the Federation shall be those carriers of social insurance whose sphere of competence extends beyond the territory of a Land.

(3) In addition, independent central federal authorities and new public law corporations and institutions directly supervised by the Federation may be established by federal legislation for matters on which the Federation has the power to legislate. Should the Federation acquire new

functions in matters for which it has legislative competence, federal authorities at middle and lower levels may in case of urgent need be established with the approval of the Bundesrat and of the majority of the Bundestag.

Art. 88. The Federation shall establish a bank of currency and issue as federal bank.

Art. 89. (1) The Federation shall be the owner of the former Reich waterways.

(2) The Federation shall administer the federal waterways through its own authorities. It shall exercise those state functions relating to inland shipping extending beyond the territory of a Land and the functions of ocean-going shipping which are conferred on it by legislation. The Federation may delegate the administration of federal waterways, insofar as they lie within the territory of a Land, to this Land, upon request, to act on its behalf (*Auftragsverwaltung*). Should a waterway touch the territories of several Laender, the Federation may delegate the administration to the Land agreed upon by the Laender concerned.

Art. 90. (1) The Federation shall be the owner of the former Reich Autobahnen and Reich highways.

(2) The Laender, or such self-governing corporations under public law as are competent in accordance with Land law, shall administer the federal Autobahnen and other federal highways used for long-distance traffic on behalf of the Federation.

(3) At the request of a Land, the Federation may take over into direct federal administration federal Autobahnen and other federal highways used for long-distance traffic, insofar as they lie within the territory of this Land.

Art. 91. (1) In order to avert an imminent danger to the existence or the free democratic basic order of the Federation or a Land, a Land may call in the police forces of other Laender.

(2) If the Land in which the danger is imminent is not itself prepared or in a position to combat the danger, the Federal Government may place the police in that Land or the police forces of other Laender under its instructions. The order (*Anordnung*) shall be rescinded after the danger has been overcome, otherwise at any time on demand from the Bundesrat.

IX

The Administration of Justice

Art. 92. Judicial authority shall be invested in the judges; it shall be exercised by the Federal Constitutional Court, by the Supreme Federal Court, by the federal courts provided for in this Basic Law and by the courts of the Laender.

Art. 93. (1) The Federal Constitutional Court shall decide:

1. On the interpretation of this Basic Law in the event of disputes concerning the extent of the rights and duties of the highest federal organ or of other participants accorded independent rights by this Basic Law or in the Standing Orders (Rules of Procedure) of the highest federal organ;

2. In cases of differences of opinion or doubts on the formal and material compatibility of federal law or Land law with this Basic Law, on the compatibility of Land law with some other federal law, on the application of the Federal Government, of a Land Government or of one-third of the members of the Bundestag;

3. In cases of differences of opinion on the rights and duties of the Federation and the Laender, particularly in the execution of federal law by the Laender, and in the exercise of federal supervision;

4. On other public law disputes between the Federation and the Laender, between different Laender or within a Land, insofar as appeal to another court is not provided for;

5. In all other cases provided for in this Basic Law.

(2) Furthermore, the Federal Constitutional Court shall act in cases otherwise assigned to it by federal legislation.

Art. 94. (1) The Federal Constitutional Court shall consist of federal judges and other members. The members of the Federal Constitutional Court shall be elected half by the Bundestag and half by the Bundesrat. They may not belong to the Bundestag, the Bundesrat, the Federal Government or corresponding bodies of a Land.

(2) A federal law shall regulate its legal constitution and procedure and determine in which cases its decisions shall have the force of law.

Art. 95. (1) To preserve the unity of federal law, a Supreme Federal Court shall be established.

(2) The Supreme Federal Court shall decide in cases where the decision is of fundamental importance for the uniformity of the administration of justice of the higher federal courts.

(3) The appointment of the judges of the Supreme Federal Court shall be decided jointly by the Federal Minister of Justice and a committee for the election of judges consisting of the Land Ministers of Justice and an equal number of members elected by the Bundestag.

(4) Otherwise the constitution of the Supreme Federal Court and its procedure shall be regulated by federal legislation.

Art. 96. (1) Higher federal courts shall be established for the spheres of ordinary, administrative, finance, labour and social jurisdiction.

(2) Article 95, paragraph (3), shall apply to the judges of the higher federal courts with the proviso that the place of the Federal Minister of Justice and the Land Ministers of Justice be taken by the Ministers competent for the particular matter. Their conditions of service must be regulated by a special federal law.

(3) The Federation may establish federal disciplinary courts for disciplinary proceedings against federal officials and federal judges.

Art. 97. (1) Judges shall be independent and subject only to the law.

(2) Judges who are principally, regularly and definitely employed as such may, against their will, be dismissed before the expiry of their term of office, or permanently or temporarily suspended from office or transferred to another office or be placed on the retired list only through the decision of a court and only on the grounds and in the forms prescribed by legislation. Legislation may set an age limit at which judges who have been appointed for life shall retire. In the case of alterations in the structure of the courts of their districts, judges may be transferred to another court or suspended from office. They must, however, retain their full salary.

Art. 98. (1) The legal status of the federal judges must be regulated by a special federal law.

(2) If a federal judge, in his official or unofficial capacity, infringes the principles of the Basic Law or the constitutional order of a Land, the Federal Constitutional Court may on the application of the Bundestag

and with a two-thirds majority, order that the judge be transferred to another office or placed on the retired list. In the case of wilful infringement dismissal may also be decided upon.

(3) The legal status of the judges in the Laender must be regulated by special Land legislation. The Federation may issue general provisions.

(4) The Laender may determine that the Land Minister of Justice shall, together with a committee for the election of judges, decide on the appointment of judges in the Laender.

(5) The Laender may make an appropriate regulation for Land judges in accordance with paragraph (2). Valid Land constitutional law shall remain unaffected. The Federal Constitutional Court shall decide in the case of impeachment of a judge.

Art. 99. By Land legislation the decision on constitutional disputes within a Land may be assigned to the Federal Constitutional Court, and the decision of final instance on matters involving the application of Land law to the higher federal courts.

Art. 100. (1) If a court considers unconstitutional a law the validity of which is pertinent to its decision, proceedings must be stayed and, if a violation of a Land Constitution is involved, the decision of the Land court competent for constitutional disputes shall be obtained and, if a violation of this Basic Law is involved, the decision of the Federal Constitutional Court shall be obtained. This shall also apply if the violation of this Basic Law by Land law or the incompatibility of a Land law with a federal law is involved.

(2) If in litigation it is doubtful whether a rule of international law forms part of federal law and whether it creates direct rights and duties for the individual (Article 25), the court shall obtain the decision of the Federal Constitutional Court.

(3) If the court of a Land, in interpreting the Basic Law, intends to deviate from a decision of the Federal Constitutional Court or the constitutional court of another Land, the said constitutional court must obtain the decision of the Federal Constitutional Court. If, in interpreting other federal law, it intends to deviate from the decision of the Supreme Federal Court or a higher federal court, it must obtain the decision of the Supreme Federal Court.

Art. 101. (1) Extraordinary courts shall be inadmissible. No one may be prevented from appearing before his lawful judge.

(2) Courts for special matters may be established only by law.

Art. 102. The death sentence shall be abolished.

Art. 103. (1) Everyone brought before a court shall have a claim to proper legal hearing.

(2) An act may be punished only if it was punishable by law before the act was committed.

(3) No one may be punished more than once on account of the same act in pursuance of the general criminal laws.

Art. 104. (1) The freedom of the individual may be restricted only on the basis of a formal law and only with due regard to the forms prescribed therein. Detained persons may be subjected neither to physical nor mental ill-treatment.

(2) Only the judge shall decide on the admissibility and continued duration of a deprivation of liberty. If such deprivation is not based on the order of a judge, a court decision must be obtained without delay.

The police may, on its own authority, hold no one in custody beyond the end of the day following the arrest. Details shall be regulated by legislation.

(3) Any person temporarily detained on suspicion of having committed a punishable act must, at the latest on the day following the arrest, be brought before a judge who shall inform him of the reasons for the arrest, interrogate him and give him an opportunity to raise objections. Without delay, the judge must either issue a warrant of arrest, setting out the reasons therefor, or order his release.

(4) A relative of the person detained or a person enjoying his confidence must be notified forthwith of any judicial decision in respect of the ordering or the continued duration of a deprivation of liberty.

X

Finance

Art. 105. (1) The Federation shall have exclusive legislation on customs and financial monopolies.

(2) The Federation shall have concurrent legislation on:

1. Excise taxes and taxes on transactions, with the exception of taxes with localized application, in particular the taxes on real estate acquisition, incremental value and on fire protection,
2. The taxes on income, property, inheritance and donations,
3. "Realsteuern" (taxes on real estate and on business) with the exception of the fixing of tax rates.

if it makes a claim on the taxes in their entirety or in part to cover federal expenditures or if the conditions of Article 72, paragraph (2), apply.

(3) Federal legislation on taxes the yield of which accrues in entirety or in part to the Laender or the Gemeinden (*Gemeindeverbände*) shall require the approval of the Bundesrat.

Art. 106. (1) Customs, the yield of monopolies, the excise taxes with the exception of the beer tax, the transportation tax, the turnover tax and property dues serving non-recurrent purposes shall accrue to the Federation.

(2) The beer tax, the taxes on transactions with the exception of the transportation tax and turnover tax, the income and corporation taxes, the property tax, the inheritance tax, the "Realsteuern" and the taxes with localized application shall accrue to the Laender and, in accordance with Land legislation, to the Gemeinden (*Gemeindeverbände*).

(3) The Federation may, by means of a federal law which shall require the approval of the Bundesrat, make a claim to a part of the income and corporation taxes to cover its expenditures not covered by other revenues, in particular to cover grants which are to be made to Laender to meet expenditures in the fields of education, public health and welfare.

(4) In order to ensure the working efficiency also of the Laender with low revenues and to equalize the differing burden of expenditure of the Laender, the Federation may make grants and take the funds necessary for this purpose from specific taxes of those accruing to the Laender. A federal law, which shall require the approval of the Bundesrat, shall determine which taxes shall be utilized for this purpose and in what amounts and on what basis the grants shall be distributed among the Laender entitled to equalization; the grants must be handed directly to the Laender.

Art. 107. The final distribution of the taxes subject to concurrent legislation between the Federation and the Laender shall be effected not later than 31 December 1952 and by means of a federal law which shall require the approval of the Bundesrat. This shall not apply to the "Realsteuern" and the taxes with localized application. In this, both Federation and Laender shall be given a legal claim to certain taxes or shares in taxes corresponding to their functions.

Art. 108. (1) Customs, financial monopolies, the excise taxes subject to concurrent legislation, the transportation tax, the turnover tax and the non-recurrent property dues shall be administered by federal finance authorities. The structure of these authorities and the procedure to be applied by them shall be regulated by federal legislation. The heads of the authorities at middle level shall be appointed by agreement with the Land Governments. The Federation may delegate the administration of the non-recurrent property dues to the Land finance authorities to act on behalf of the Federation (*Auftragsverwaltung*).

(2) Insofar as the Federation makes a claim to a part of the income and corporation taxes it shall have the right to administer them. It may, however, delegate the administration to the Land finance authorities to act on behalf of the Federation.

(3) The remaining taxes shall be administered by Land finance authorities. The Federation may, by means of federal legislation which shall require the approval of the Bundesrat, regulate the structure of these authorities, the procedure to be applied by them and the uniform training of the officials. The heads of the authorities at middle level must be appointed by agreement with the Federal Government. The administration of the taxes accruing to the Gemeinden (*Gemeindeverbände*) may be transferred by the Laender in entirety or in part to the Gemeinden (*Gemeindeverbände*).

(4) Insofar as the taxes accrue to the Federation, the Land finance authorities shall act on behalf of the Federation. The Laender shall be liable with their revenues for a regular administration of these taxes; the Federal Minister of Finance may supervise the regular administration through federal plenipotentiaries who shall have the right to give instructions to the authorities at middle and lower level.

(5) Finance jurisdiction shall be uniformly regulated by federal legislation.

(6) The general administrative provisions shall be issued by the Federal Government and, insofar as the administration is incumbent upon the Land finance authorities, with the approval of the Bundesrat.

Art. 109. The Federation and the Laender shall be self-supporting and independent of each other in their budget economy.

Art. 110. (1) All revenues and expenditures of the Federation must be estimated for each fiscal year and included in the budget.

(2) The budget shall be established by law before the commencement of the fiscal year. Revenue and expenditure must be balanced. Expenditures shall as a rule be approved for one year; they may in special cases be approved for a longer period. Otherwise the federal budget law may contain no provisions which extend beyond the fiscal year or which do not concern the revenues and expenditures of the Federation or its administration.

(3) The assets and liabilities shall be indicated in an appendix to the budget.

(4) In the case of federal commercial enterprises, only the final result, and not the detailed revenues and expenditures, need be included in the budget.

Art. 111. (1) If by the end of a fiscal year the budget for the following year has not been established by law, the Federal Government shall, until such a law comes into force, be empowered to effect such payments as are necessary:

(a) To maintain legally established institutions and to carry out legally determined measures;

(b) To meet legally established obligations of the Federation;

(c) To continue building projects, procurements and other services or to grant further subsidies for these purposes insofar as funds have already been approved by the budget of a previous year.

(2) Insofar as revenues from taxes, imports and other sources based on special legislation, or working capital reserves, do not cover the expenditures under paragraph (1), the Federal Government may realise by way of credits the funds necessary to conduct current operations up to one-fourth of the final sum contained in the previous budget.

Art. 112. Expenditure exceeding the budget and any extraordinary expenditures shall require the approval of the Federal Minister of Finance. They may only be given in case of an unforeseen and irrefutable necessity.

Art. 113. Decisions of the Bundestag and Bundesrat which increase the budget expenditure proposed by the Federal Government or include, or imply for the future, new expenditure, shall require the approval of the Federal Government.

Art. 114. The Federal Minister of Finance must present to the Bundestag and the Bundesrat an annual statement of all revenues and expenditures as well as of assets and liabilities. The audit thereof shall be carried out by an Audit Office (*Rechnungshof*) the members of which shall possess judicial independence. In order to secure a discharge for the Federal Government, the general statement of account and a survey of the assets and liabilities shall be submitted to the Bundestag and the Bundesrat in the course of the next fiscal year, together with the observations of the Audit Office. The auditing of accounts shall be regulated by a federal law.

Art. 115. By way of credits, funds may be obtained only in the case of extraordinary need and as a rule only for expenditure for productive purposes and only on the basis of a federal law. The granting of credits and provision of securities as a charge on the Federation, the effect of which extends beyond the fiscal year, may be undertaken only on the basis of a federal law. The amount of the credits or the extent of the obligation for which the Federation assumes liability must be determined in the law.

XI

Transitional and Concluding Provisions

Art. 116. (1) Unless otherwise regulated by law, a German within the meaning of this Basic Law is a person who possesses German nationality or who has been accepted in the territory of the German Reich as at 31 December 1937 as a refugee or expellee of German stock or as the spouse or descendant of such person.

(2) Former German nationals who between 30 January 1933 and 8 May 1945 were deprived of their nationality for political, racial or religious reasons, and their descendants, shall be regranted citizenship on application. They shall not be considered to have lost citizenship insofar as they took up residence in Germany after 8 May 1945 and have not expressed a wish to the contrary.

Art. 117. (1) Law which conflicts with Article 3, paragraph (2), shall remain in force until it is adjusted to this provision of the Basic Law, but not beyond 31 March 1953.

(2) Laws which restrict the right of freedom of movement in consideration of the present housing shortage shall remain in force until repealed by federal legislation.

Art. 118. The reorganization of the territory comprising the Laender Baden, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern may be accomplished, by agreement between the Laender concerned, in a manner deviating from the provisions of Article 29. Should an agreement not be reached, the reorganization shall be regulated by federal legislation which must provide for a referendum.

Art. 119. In matters relating to refugees and expellees, in particular their distribution to the Laender, the Federal Government may, with the approval of the Bundesrat, issue orders (*Verordnungen*) having the force of law pending a regulation by federal legislation. In special cases the Federal Government may be empowered to issue individual instructions. The instructions shall, except in case of imminent danger, be directed to the highest Land authorities.

Art. 120. (1) The Federation shall bear the expenses for occupation costs and, in accordance with more detailed provisions by a federal law, the other internal and external war-induced burdens, and the grants towards the burdens of social insurance, including unemployment insurance and public assistance for the unemployed.

(2) The revenues shall pass to the Federation at the same time at which the Federation assumes the expenditure.

Art. 121. The majority of the members of the Bundestag and of the Federal Convention within the meaning of this Basic Law shall be the majority of their statutory number of members.

Art. 122. (1) As from the assembly of the Bundestag, laws shall be passed exclusively by the legislative authorities recognized in this Basic Law.

(2) With effect from this date, legislative bodies and bodies acting in an advisory capacity in respect of legislation, the competence of which ends in accordance with paragraph (1), shall be dissolved.

Art. 123. (1) Law existing before the assembly of the Bundestag shall remain in force, insofar as it does not conflict with the Basic Law.

(2) The state treaties concluded by the German Reich concerning matters for which, according to this Basic Law, Land legislation is competent, shall remain in force if they are valid and continue to be valid according to general basic principles of law, while reserving all the rights and objections of those concerned, until new state treaties shall have been concluded by the authorities made competent to do so by this Basic Law or until they are otherwise terminated on the grounds of the provisions they contain.

Art. 124. Law concerning matters within the exclusive legislative competence of the Federation shall become federal law within the area of its application.

Art. 125. Law concerning matters of concurrent federal legislation shall become federal law within the area of its application,

1. Insofar as it is uniformly valid within one or more zones of occupation,
2. Insofar as it concerns law by which former Reich law has been amended since 8 May 1945.

Art. 126. Divergencies of opinion on the continued validity of law as federal law shall be decided by the Federal Constitutional Court.

Art. 127. Within one year after promulgation of this Basic Law the Federal Government may, with the approval of the Governments of the Laender concerned, extend law of the Bizonal Economic Administration, insofar as it continues in force as federal law according to Articles 125 or 126, to the Laender Baden, Greater Berlin, Rhineland-Palatinate and Wuerttemberg-Hohenzollern.

Art. 128. Insofar as in accordance with still valid law, powers to give instructions within the meaning of Article 84, paragraph (5), still exist, these shall remain in force pending some other legislative regulation.

Art. 129. (1) Insofar as legal provisions which continue in force as federal law contain an authorization to issue orders (*Rechtsverordnungen*) or general administrative provisions and to perform administrative acts, this authorization shall pass to the authorities now competent for the subject matter. In doubtful cases the Federal Government shall decide by agreement with the Bundesrat; the decision must be published.

(2) Insofar as legal provisions which continue in force as Land law contain such an authorization, it shall be exercised by the authorities competent according to Land law.

(3) Insofar as legal provisions within the meaning of paragraphs (1) and (2) authorize the alteration or amplification or the issue of legal provisions instead of laws, these authorizations shall lapse.

(4) The provisions of paragraphs (1) and (2) shall apply appropriately insofar as legal provisions refer to regulations no longer valid or to institutions no longer in existence.

Art. 130. (1) Administrative organs and other institutions serving the public administration or administration of justice, which are not based on Land law or treaties between Laender, as well as the amalgamated management of the South West German railways and the Administrative Council for the post and telecommunications service of the French Zone of Occupation, shall be under the Federal Government. The latter shall, with the approval of the Bundesrat, regulate the transfer, dissolution, or liquidation of such bodies.

(2) The highest disciplinary authority for the personnel of these administrations and establishments shall be the competent Federal Minister.

(3) Public law corporations and institutions not directly supervised by a Land and not based on treaties between Laender, shall be under the supervision of the competent highest federal authority.

Art. 131. The legal status of persons, including the refugees and expellees who were employed in the public service on 8 May 1945 and who have left service for reasons other than those based on civil service or tariff regulations, and who hitherto have not been employed or not in

a position corresponding to their former one, shall be regulated by federal legislation. The same shall apply to persons, including the refugees and expellees who were entitled to a pension or other assistance on 8 May 1945, and who no longer receive such or something equivalent for reasons other than those based on civil service or tariff regulations. Without prejudice to other regulations by Land law, legal claims may not be raised until the federal law comes into force.

Art. 132. (1) Officials (*Beamte*) and judges who, at the time this Basic Law comes into force, have been appointed for life may, within six months after the first meeting of the Bundestag, be placed on the retired list or waiting list or be transferred to another office with less remuneration, if they are personally or professionally unsuitable for their office. This provision shall apply appropriately also to employees (*Angestellte*) not subject to notice of dismissal. In the case of employees (*Angestellte*) whose conditions of service require notice of dismissal, notice exceeding that required by tariff regulations may be cancelled within the same period.

(2) The provisions shall not apply to members of the public service unaffected by the denazification and demilitarization laws or who are recognized victims of national socialism, insofar as there are no important objections against such persons.

(3) Those affected by the above shall have recourse to the courts in accordance with Article 19, paragraph (4).

(4) Details shall be determined by an order (*Verordnung*) of the Federal Government, which shall require the approval of the Bundesrat.

Art. 133. The Federation shall succeed to the rights and obligations of the Bizonal Economic Administration.

Art. 134. (1) Reich property shall in principle become federal property.

(2) It shall, without compensation, be transferred to the authorities now competent to carry out the functions, insofar as it was originally destined mainly for administrative functions which according to this Basic Law are not administrative functions of the Federation, and to the Laender insofar as, according to its present, not solely temporary, use, it serves for administrative functions which according to this Basic Law are now to be fulfilled by the Laender. The Federation may also transfer other property to the Laender.

(3) Property which was placed at the disposal of the Reich by the Laender and Gemeinden (*Gemeindeverbände*) shall, without compensation, become once more the property of the Laender and Gemeinden (*Gemeindeverbände*), insofar as the Federation does not require it for its own administrative functions.

(4) Details shall be regulated by a federal law which shall require the approval of the Bundesrat.

Art. 135. (1) If, between 8 May 1945 and the coming into force of this Basic Law, a territory has changed from one Land to another, in this territory the property of the Land to which the territory belonged shall be transferred to the Land to which the territory now belongs.

(2) Insofar as it was originally destined mainly for administrative functions, or is at present, and not solely temporarily, mainly used for administrative functions, the property of Laender and other public law corporations and institutions no longer existing shall be transferred to

the Land or public law corporation or institution now performing these functions.

(3) Real estate of Laender no longer existing, including appurtenances, shall, insofar as it does not already belong to the property within the meaning of paragraph (1), be transferred to the Land in the territory of which it is situated.

(4) Insofar as an overriding interest of the Federation or the particular interests of a territory require it, a regulation deviating from paragraphs (1) to (3) may be adopted by federal legislation.

(5) Otherwise the legal succession and the settlement of property, insofar as it has not been effected by 1 January 1952 by agreement between the Laender or public law corporations or institutions concerned, shall be regulated by federal legislation which shall require the approval of the Bundesrat.

(6) Participants of the former Land Prussia in civil law enterprises shall pass to the Federation. Details shall be regulated by a federal law which may make provisions deviating from this.

(7) Insofar as property which, according to paragraphs (1) to (3), would accrue to a Land or a public law corporation or institution, has been disposed of by the authority thereby authorized by means of a Land law, on the basis of a Land law or in some other way at the coming into force of the Basic Law, the transfer of property shall be considered as having been effected before the disposal.

Art. 136. (1) The Bundesrat shall meet for the first time on the day of the first assembly of the Bundestag.

(2) Until the election of the first Federal President, his functions shall be exercised by the President of the Bundesrat. He shall not have the right to dissolve the Bundestag.

Art. 137. (1) The eligibility for election of officials (*Beamte*), employees (*Angestellte*) of the public service and judges of the Federation, of the Laender and of the *Gemeinden* may be restricted by legislation.

(2) For the election of the first Bundestag, of the first Federal Convention and of the first Federal President of the Federal Republic of Germany the Electoral Law to be adopted by the Parliamentary Council shall apply.

(3) The functions of the Federal Constitutional Court pursuant to Article 41, paragraph (2), shall be exercised, pending its establishment, by the German High Court for the Combined Economic Area which shall decide in accordance with its Standing Orders (Rules of Procedure).

Art. 138. Changes in the existing organization of notaries in the Laender Baden, Bavaria, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern shall require the approval of the Governments of these Laender.

Art. 139. The legal provisions enacted for the liberation of the German people from national socialism and militarism shall not be affected by the provisions of this Basic Law.

Art. 140. The provisions of Articles 136, 137, 138, 139, and 141 of the German Constitution of 11 August 1919 shall be an integral part of this Basic Law.

Art. 141. Article 7, paragraph (3), first sentence, shall not apply in a Land in which on 1 January 1949 another legal Land regulation existed.

Art. 142. Without prejudice to Article 31, provisions of the Land Constitutions shall also remain in force, insofar as they conform to Articles 1 to 18.

Art. 143. (1) Whoever by force or the threat of force changes the constitutional order of the Federation or of a Land, deprives the Federal President of the powers accorded to him by this Basic Law or who by force or the threat of danger compels him to exercise his powers in a specific manner or not at all, or prevents the exercise of his powers, or deprives the Federation or a Land of a territory belonging to them shall be condemned to penal servitude for life or not less than 10 years.

(2) Whoever publicly incites to an action within the meaning of paragraph (1), or plots or otherwise arranges such an action in connivance with another person, shall be condemned to penal servitude up to 10 years.

(3) In less serious cases, a sentence of not less than two years' penal servitude in the cases provided for in paragraph (1), and of not less than one year's imprisonment in the cases provided for in paragraph (2), may be imposed.

(4) Whoever of his own free will gives up his activity or, in case of participation of several persons, prevents a conspiracy, may not be punished in accordance with the provisions of paragraphs (1) to (3).

(5) Insofar as the action is directed exclusively against the constitutional order of a Land, the highest court of the Land shall, in the absence of any other regulation in Land law, be competent to pass judgment. Otherwise the superior court (*Oberlandesgericht*), in the district of which the first Federal Government chooses its seat, shall be competent.

(6) The aforementioned provisions shall be valid pending another regulation by federal law.

Art. 144. (1) This Basic Law shall require acceptance by the popular representative bodies in two-thirds of the German Laender in which it shall initially be valid.

(2) Insofar as restrictions are imposed on the application of the Basic Law to one of the Laender enumerated in Article 23, paragraph (1), or to a part of one of these Laender, that Land or a part of that Land shall have the right, in accordance with Article 38, to send representatives to the Bundestag and, in accordance with Article 50, to the Bundesrat.

Art. 145. (1) The Parliamentary Council with the participation of the representatives of Greater Berlin shall in a public meeting confirm the adoption of this Basic Law, engross it and promulgate it.

(2) This Basic Law shall come into force at the end of the day of its promulgation.

(3) It shall be published in the Federal Legal Gazette.

Art. 146. This Basic Law shall become invalid on the day when a constitution adopted in a free decision by the German people comes into force.

TEXT OF DRAFT CONSTITUTION for EAST GERMANY

adopted by the Volksrat, Berlin, March 19, 1949¹

(This document is printed in this annex rather than in the original text because it does not at the time of our going to press occupy the status of a constitution of a sovereign nation. Germany and its various sectors are still subject to the rule of the Allied Powers. The document drafted at Bonn by delegates from the Western Zones is printed in this annex at page 599.)

The German People, imbued with the desire to safeguard human liberty and *rights*, to give new form and meaning to communal and economic life in accordance with the principle of social justice, and to promote social progress, a secure peace and amity with *all* peoples, have adopted this Constitution.

A. Fundamental Elements of Sovereignty

Art. 1. Germany is an indivisible democratic republic whose foundations are the German Laender.

Any issue of basic importance for the existence and the development of the whole of the German people shall be resolved by the Republic, all other issues independently by the Laender.

The decisions of the Republic shall, as a matter of principle, be carried out by the Laender.

There shall be only one German nationality.

Art. 2. The colors of the German Democratic Republic shall be black, red, and gold.

The capital of the Republic is Berlin.

Art. 3. The sovereign power emanates from the people.

Every citizen shall have the right and the duty to take part in the political life of his community, his district, his Land, and of the German Republic.

This right to participate shall take the form of

Voting in popular initiatives and referendums,

Exercising the franchise and becoming a candidate for the office of representative,

¹ Subject to final ratification by the third Volkskongress scheduled for the summer of 1949. Italicized portions (other than headings) indicate changes made in original draft at time of approval by the Volksrat.

Acceptance of public offices in general administration as well as the administration of justice.

Every citizen shall be entitled to submit petitions to the legislative body.

The sovereign authority of the state must be devoted to the welfare of the people, to freedom, peace, and to democratic progress.

Those active in public service shall be servants of the community as a whole and not of any one party. Their activity shall be supervised by the legislative body.

Art. 4. All sovereign measures must be consonant with the principles which the Constitution has declared to be the substance of sovereignty. The legislative body shall decide on the constitutionality of these measures pursuant to Article 66 of the Constitution. It shall be everybody's right and duty to resist measures contradicting the enactments of the legislative body.

Every citizen shall be in duty bound to act in accordance with the Constitution and to defend it against its enemies.

Art. 5. The generally recognized principles of international law shall be binding upon the sovereign state and its citizens.

It shall be the duty of the state to maintain and cultivate amicable relations with all nations.

No citizen shall participate in a war which is waged to bring about the oppression of another people.

B. Substance and Limits of Sovereignty

I. Rights of Citizens

Art. 6. All citizens shall be equal before the law.

Incitements to boycott democratic institutions or organizations, designs on the life of democratic political leaders, the manifestation of religious and racial hatred and of hatred against other peoples, war propaganda and any other discriminatory acts shall be crimes within the meaning of the criminal code. The exercise of democratic rights within the meaning of the Constitution is not an incitement to boycott.

Whoever has been convicted of such a crime shall be disqualified to hold public office or a leading position in economic or cultural life. He shall lose the right to vote and to be elected to office.

Art. 7. Men and women shall have equal rights.

All provisions and regulations in conflict with the equality of women shall be abrogated.

Art. 8. Personal liberty, inviolability of the home, secrecy of the mail, and freedom of movement shall be guaranteed. The state may restrict or revoke these freedoms only by universally applicable legislation.

Art. 9. All citizens shall have the right within the limits of universally applicable laws to express their opinion freely and publicly. This freedom shall not be restricted by virtue of an employment relationship, and no one shall be discriminated against for exercising this right.

There shall be no press censorship.

Art. 10. No citizen may be extradited to a foreign power.

Aliens shall neither be extradited nor expelled, if outside this country they are subject to persecution because of their struggle in support of the principles embodied in this Constitution.

Any citizen shall have the right to emigrate. This right may only be restricted by national law.

Art. 11. The free ethnic development of foreign-language elements of the population of the Republic shall be promoted by legislation and administrative action. In particular they shall not be prevented from using their mother tongue in matters of education, internal administration, and the administration of justice.

Art. 12. All citizens shall, for purposes not prohibited by criminal law, have the right to participate in the formation of associations or societies.

Art. 13. Associations which in accordance with their charter and by-laws aim to bring about a democratic organization of public life based upon this Constitution and whose executive bodies are designated by their members are entitled to present candidates for membership in local, district, and Land legislative bodies.

Nomination for the People's Chamber may be made only by those associations which pursuant to their charter and by-laws aim to bring about the democratic organization of public and social life in the entire Republic and which maintain a nation-wide centrally directed organization.

Art. 14. All persons shall be guaranteed the right to organize for the improvement of wages and working conditions. Agreements and measures intended to restrict this right or impede it shall be unlawful and prohibited. Recognized trade unions shall have the right to call a strike.

Art. 15. The citizen's power for work shall be protected by the state.

The right to work is guaranteed. By means of a planned economy, the state shall ensure to each citizen work and a living. Whenever suitable work cannot be found for him, he shall be provided sustenance.

Art. 16. Every worker is entitled to vacation and recreation, to an annual leave with pay and to being provided for in illness and old age.

Sundays, holidays, and the first day of May are days of rest, and are protected by law.

The Republic shall create a uniform and comprehensive insurance system to preserve the health and strength of the working population, to protect motherhood, and to provide against the economic consequences of old age, incapacity, unemployment and other vicissitudes of life along the principle of autonomous administration by the insured.

Art. 17. Workers and employees shall have an important voice in the regulation of industrial production, wages, and working conditions in enterprises.

The workers and employees shall exercise these rights through trade unions and works councils.

Art. 18. The Republic shall create a uniform labor legislation, a uniform system of labor courts and uniform legislation on the protection of labor, in which creations the working population shall have an important voice.

Working conditions must be such as to safeguard the health, cultural needs, and family life of the workers.

Remuneration for work must correspond to performance and must provide at least for the living of the worker and of the dependents entitled to his support.

Men and women, adults and juveniles are entitled to the same remuneration for equal work.

Women shall enjoy special protection during employment. The laws of the Republic shall provide for institutions enabling women to combine their duties as citizens and workers with those of a wife and mother.

Juvenile workers shall be protected against exploitation and saved from moral, physical, and mental delinquency. Child labor is prohibited.

II. The Economic Order

Art. 19. The regulation of economic life must conform to the principles of social justice with the aim of guaranteeing *to all* an existence compatible with the dignity of man.

It is the duty of the economy to contribute to the benefit of the whole population and to the satisfaction of its wants and to insure that everybody will obtain, in accordance with his performance, a just share in the goods produced.

Freedom of enterprise in the economic field is guaranteed to the individual within the scope of the above tasks and aims.

Art. 20. Farmers, traders and craftsmen shall be given support in the development of their initiative. Mutual aid through cooperatives shall be expanded.

Art. 21. In order to guarantee the basic standard of a living to its citizens and to raise their prosperity, the nation acting through its legislative bodies and with the direct cooperation of its citizens, shall draw up a public economic plan. It is the task of the legislative bodies to supervise the implementation of the plan.

Art. 22. Private property is guaranteed by the constitution. Its scope and its limitations are determined by law and by the obligations toward the public welfare of the community.

The right of inheritance is guaranteed to the extent provided by civil law. The share of the government in the estate shall be determined by law.

The fruits of mental work and the rights of authors, inventors, and artists shall be given protection, *furtherance* and support by the nation.

Art. 23. Restrictions on private property and expropriations may only be imposed for the benefit of the public and on the basis of law. They shall take place against reasonable indemnification unless the law provides otherwise. If the amount of indemnification is in dispute, recourse to ordinary courts shall be open unless the law provides otherwise.

Art. 24. Private property carries with it obligations. Its use must not run counter to public interests.

Misuse of private property with the intent of establishing an economic or political domination to the detriment of the public will result in its

expropriation without indemnification and its transfer to public ownership.

Enterprises owned by war criminals and active National Socialists will be transferred to public ownership without indemnification. The same shall apply to private enterprises which put their services at the disposal of an aggressive war policy.

All private monopolistic formations such as cartels, syndicates, combines, trusts and similar private organisms aiming at increasing profits through the control of production, prices, and markets are abolished and prohibited.

Privately-owned large estates with an acreage of more than one hundred hectares will be redistributed by way of a land reform without indemnification of the owners. Entailed estates are abolished.

After termination of this land reform, ownership of their land shall be guaranteed to the farmers.

Art. 25. All mineral resources, all economically usable natural power sources as well as the mining, iron and steel and electric power industry needed in their exploitation shall be transferred to public ownership.

Until such transfer, their use will be supervised by the *Laender* or by the Republic where the interests of the whole of Germany are involved.

Art. 26. The distribution and utilization of the land will be under supervision, and any misuse thereof will be prevented. An increase in the value of landed property resulting without an expense of labor or capital shall be made available to the public.

Every citizen and every family shall be assured of a healthy dwelling befitting their needs. Special consideration in this connection shall be given to victims of fascism, seriously disabled persons, persons having incurred special war losses and displaced settlers.

Maintenance and furtherance of safe returns from agriculture will be safeguarded also by means of landscape planning and landscape cultivation.

Art. 27. Private economic enterprises suitable for public ownership may be transferred to public ownership by law under the provisions dealing with expropriation.

The Republic, the *Laender*, the districts and municipalities may be given by law a decisive voice in the management, or otherwise, of enterprises and associations.

The law may provide that economic enterprises and associations shall be combined into autonomous organizations in order to ensure the collaboration of the whole producing population, to give workers and employers a share in the management, and to regulate production, manufacture, distribution, utilization, the price structure, and the import and export of commodities along the principles of public interest.

Consumer and buying cooperatives, cooperatives engaged in gainful pursuits, and agricultural cooperatives and their associations shall be integrated into the public economy while preserving their characteristic organization and features.

Art. 28. Any alienation or encumbrance of landed property, productive plants or shares therein owned by the public must have the approval of the legislative body exercising jurisdiction over the possessor agency.

Such approval requires at least a two-third majority of the legal number of members.

Art. 29. Property and income will be taxed according to progressively increasing rates on the basis of social considerations and with particular reference to family obligations.

Taxation must give special consideration to earned property and income.

III. Family and Motherhood

Art. 30 (formerly 37). Marriage and family are the foundations of communal life and are protected by the state.

All laws or statutory provisions by which the equal rights of men and women within the family are impaired, are abrogated.

Art. 31. (38). Parents have the natural right to bring up their children in a democratic spirit which will fit them mentally and physically as human beings, and this is their supreme duty towards society.

Art. 32. (39). A woman during maternity is entitled to particular protection and care on the part of the state.

The Republic will issue a law on the protection of maternity. Institutions shall be created to protect mother and child.

Art. 33. (40). Illegitimate birth shall not operate to discriminate against either child or parents.

Any laws and regulations to the contrary shall be abrogated.

IV. Education

Art. 34. (30). The arts and sciences and their teaching are free.

The nation joins in their cultivation and gives them its protection, especially against their misuse for purposes which are contrary to the provisions or the spirit of the Constitution.

Art. 35. (31). Every citizen has an equal right to education and to a free choice of his vocation.

Education of youth and adult education in liberal or technical training for citizens in all fields of national and social life shall be provided by public institutions.

Art. 36. (35). The Laender are responsible for the establishment of a public school system and for the practical operation of school instruction. If the need is felt, the Republic may itself establish public institutions of learning.

The Republic will issue uniform directives for the training of teachers. Such training will take place in the universities or institutions of equal standard.

Art. 37. (34). The schools shall educate the youth in the spirit of the Constitution to become independently thinking men who are capable and ready to take their places in the community.

The school, as disseminator of cultural values, has the task of bringing up youth to a real humanism in the ideal of peace and amity among nations and in a truly democratic spirit.

The parents shall participate in their children's education at school by means of cooperative councils of parents.

Art. 38. (32). Until completion of the 18th year of life, attendance at schools shall be generally compulsory. After completion of a primary

school course compulsory for all children, further training shall be pursued in a vocational or technical school, in high schools, or in other public institutions of learning. All juveniles under 18 years of age must attend a vocational or training school, unless they attend another public school. Private schools as substitutes for public schools are inadmissible.

The vocational and technical schools shall afford general and vocational training.

The high schools (*Oberschule*) shall pave the way for admission to a university. Such admission, however, does not require high school attendance; other public institutions of learning, which shall be extended or created for that purpose, may take its place.

The citizens must be given the opportunity to prepare their admission to a university in special preparatory schools.

The members of all strata of the population shall be given an opportunity to acquire knowledge in popular universities without giving up their vocational activities.

Art. 39. (33). Every child must be given the opportunity to fully develop its physical, mental and moral capacities. The school career of youth must not depend on the social or economic position of the parents. Indeed, children who are at a disadvantage because of social conditions shall be given special care. Attendance at *technical school*, high school, and university must be open to gifted pupils from all classes of the population.

Tuition shall be free. Teaching aids and instructional material used in compulsory schools shall be furnished without cost; in case of need, attendance of high school and university will be promoted thru scholarships and other measures.

Art. 40. (36). Religious education is a function of the religious congregations. The free exercise of this right is guaranteed.

V. Religion and Religious Congregations

Art. 41. Every citizen shall enjoy complete freedom of faith and conscience. The unhindered exercise of religious beliefs shall have the protection of the Republic.

Any use of establishments erected by religious congregations, or religious acts or religious education for purposes which are contrary to the principles of the Constitution or for purposes of party policy is prohibited. However, the right of religious congregations to express an attitude in keeping with their own viewpoints towards issues vital for the public shall be uncontested.

Art. 42. Civic or political rights and duties shall not be affected nor restricted by the practice of religion.

The exercise of civic or political rights or the admission to public service shall not be made dependent on a religious creed.

No one shall be required to manifest his religious faith. The administrative agencies shall have the right to make inquiries about a person's membership in a religious congregation only insofar as rights and duties are connected therewith, or lawfully ordered statistical surveys require it.

No one shall be forced to attend religious rites or celebrations or to participate in religious exercises or to use the religious form of oath.

Art. 43. There shall be no state religion. The freedom of uniting in religious congregations shall be guaranteed.

Religious congregations shall regulate and manage their affairs independently and in accordance with universally applicable laws.

Religious congregations which have been public-law agencies in the past shall continue in this status. Other religious congregations shall, upon their application, be granted the same rights, if on the basis of their by-laws and their membership they are able to guarantee their continued existence. If several such public-law religious congregations unite in an association, such association shall also be a public-law agency.

The public-law religious congregations shall have the right to levy taxes upon their members on the basis of governmental tax records and in accordance with existing provisions.

Religious congregations shall be placed on an equal level with other associations who devote themselves to cultivating a common creed.

Art. 44. The right of the Church to give religious instruction in school premises shall be guaranteed. Religious instruction shall be given by personnel selected by the church. No one shall be forced to give or be prevented from giving religious instruction. Parents or their deputies shall determine whether children shall receive religious instruction.

Art. 45. Public services rendered to religious congregations in accordance with law, agreements, or special rights, shall be replaced by statutory provisions.

Ownership and other rights of religious congregations and associations in their institutions, foundations and other property, which are dedicated to *devotional*, instructional and welfare purposes, shall be guaranteed.

Art. 46. To the extent that the need for divine service and spiritual guidance exists in hospitals, prisons, and other public institutions religious congregations shall be permitted to exercise such religious activities. No person shall be forced to participate in such activity.

Art. 47. Any person who wishes to withdraw from a public-law religious congregation and have such withdrawal legally effective, shall declare his intention before a court, or submit it in the form of an officially attested individual declaration.

Art. 48. Decision as to whether children up to 14 years of age shall belong to a religious congregation shall rest with the persons entrusted with their upbringing. Older children shall decide themselves whether or not they wish to *be members of* a religious congregation or organization professing a creed.

VI. Effectiveness of Basic Rights

Art. 49. All basic rights shall remain inviolable, except where this Constitution authorizes their restriction by law or makes their further development subject to legislative action.

*C. Structure of the Sovereign Power**I. The National Representative Body of the Republic*

Art. 50. The supreme organ of the Republic is the Volkskammer (People's Chamber).

Art. 51. The People's Chamber shall be composed of representatives of the German people.

The representatives are elected in a universal, equal, direct, and secret ballot for a term of four years, according to the principles of proportional representation.

The representatives represent the nation as a whole. They are bound only by their own conscience and are not tied to any mandates.

Art. 52. All citizens who have completed their 18th year of life have the right to vote.

All citizens who have completed their 21st year of life are eligible to the office of representative.

The People's Chamber shall consist of 400 representatives. Details are regulated by an electoral law.

Art. 53. Nominations for the People's Chamber may be submitted only by associations which comply with the provisions of Article 13, paragraph 2.

Details are regulated by a national law.

Art. 54. Elections shall be held on a Sunday or a legal holiday. Freedom and secrecy of the ballot shall be guaranteed.

Art. 55. The People's Chamber shall convene not later than 30 days after election unless it is convoked by the previous presidium at an earlier date.

The president must convoke the People's Chamber if the government or at least one-fifth of the representatives in the People's Chamber so request.

Art. 56. Not later than 60 days after the end of a legislative term or 45 days after dissolution of the People's Chamber a new chamber must be elected.

Before the termination of a legislative term the People's Chamber may be dissolved only upon its own resolution or upon a referendum, except in the case described in Article 95, paragraph 6.

To dissolve the People's Chamber upon its own resolution, the consent of more than one-half of the legal number of representatives is necessary.

Art. 57. At its first meeting the People's Chamber elects the presidium and adopts rules of procedure.

Each political group is represented in the presidium, provided that it has at least 40 members.

The presidium consists of three presidents and other members.

The presidents administer the presidium alternately as prescribed by the rules of procedure.

The president who is currently in the chair administers the presidium and presides over the deliberations of the People's Chamber. He shall be responsible for the maintenance of order and of administrative services in the Chamber.

Art. 58. The resolutions of the presidium shall be adopted by simple majority.

The presidium constitutes a quorum when at least one-half of its members are present.

Upon the resolution of the presidium the acting president shall convoke the People's Chamber; he shall also fix the date for new elections.

The presidium shall continue in office until the new People's Chamber is convened.

Art. 59. The People's Chamber shall examine the eligibility of its members and decide on the validity of the elections.

Art. 60. For the periods when the People's Chamber is not in session, and after a legislative term has expired or the People's Chamber has been dissolved, the People's Chamber shall appoint three permanent committees to carry on its functions, namely:

- A Committee for General Affairs,
- A Committee for Economic and Financial Affairs,
- A Committee for Foreign Affairs.

These committees shall have the right to function as investigating committees.

Art. 61. The People's Chamber shall adopt laws and resolutions by majority vote unless this Constitution provides otherwise.

To constitute a quorum more than one-half of the members of the Chamber must be present.

Art. 62. Deliberations of the People's Chamber and of its committees shall be public. The public may be excluded from the People's Chamber if two-thirds of the representatives present so request, and from the committees on the demand of the majority of the members of such committees.

The truthful reporting of public sessions of the People's Chamber or its committees shall not entail any prosecution.

Art. 63. The functions of the People's Chamber include:

Determination of the principles of governmental policy, and its execution.

Confirmation, supervision, and dismissal of the administration.

Determination of administration policies and supervision over all governmental agencies.

The power to legislate, except where a referendum shall be held.

Adoption of the national budget, decisions on economic planning, loans and borrowings of the Republic, and ratification of treaties.

Granting of amnesties.

Election of the President of the Republic jointly with the Laender Chamber.

Election of members of the Supreme Court of the Republic and of the Attorney-General of the Republic, and their recall.

Art. 64. For the purpose of obtaining information, the People's Chamber or any of its committees may request the presence of the minister-president or any other minister, their permanent deputies, or the chiefs of administrative agencies of the Republic. The members of the government and their designated deputies shall be permitted to attend the sessions of the People's Chamber and its committees at all times.

If they so request, members of the government or their deputies shall be given the floor during deliberations, regardless of the agenda.

They shall be subject to the disciplinary authority of the President.

Art. 65. For the purpose of supervising the activities of governmental agencies, the People's Chamber has the right, and if at least one-fifth of the legal number of representatives so request, the duty to appoint investigating committees. These committees shall take such evidence as they or the party requesting the investigation deem necessary. They may for this purpose be represented by deputies.

The courts and administrations must comply with the requests of these committees or their deputies for the taking of evidence, and upon demand present their reports for inspection.

In connection with the taking of evidence by the investigating committees the provision of the code of criminal procedure shall be applied correspondingly.

Art. 66. For the duration of the legislative term the People's Chamber establishes a Committee on the Constitution in which all parliamentary groups are represented according to their numerical strength. To this committee shall also belong three members of the Supreme Court of the Republic as well as three German professors of constitutional law, who must not be members of the People's Chamber.

The members of the Committee on the Constitution are elected by the People's Chamber.

National laws shall be reviewed as to their constitutionality exclusively by the Committee on the Constitution.

The constitutionality of national laws may be challenged by not less than one-third of the members of the Chamber, by its presidium, by the President of the Republic, by the national government, and by the Laender Chamber.

Disputes on constitutional questions between the Republic and the Laender, and the compatibility of Laender legislation and legislation of the Republic, shall be reviewed by the Committee on the Constitution, with the assistance of three elected representatives of the Laender Chamber.

The People's Chamber shall have the final decision with respect to the report of the Committee on the Constitution. Its decision shall be binding on everyone.

The People's Chamber shall also determine the execution of its decision.

The People's Chamber shall in the exercise of the administrative supervision incumbent on it be responsible for determining whether an administrative measure is unconstitutional.

Art. 67. To proceedings, legal or disciplinary, may at any time be instituted against any member of the People's Chamber for his vote or any utterance made in the exercise of his parliamentary functions, nor may he be otherwise called to account outside the Chamber. This does not apply to calumny in the meaning of the penal code, if it has been declared to be such by an investigating committee of the People's Chamber.

Restraint of personal freedom, house searches, seizures, or criminal prosecution may not be instituted against representatives except with the consent of the People's Chamber.

Any criminal proceedings against a representative in the People's Chamber and any arrest or other restraint of his personal freedom shall be suspended for the duration of the session upon the demand of the Chamber of which the representative is a member.

The members of the People's Chamber shall have the right to refuse to testify concerning persons who imparted information to them in their capacity as representatives or to whom they, as representatives, imparted such information, as well as concerning such information itself. In respect to seizure of documents, they shall enjoy the same privileges as persons who have the legal right to refuse testimony.

No searches or seizures may be conducted on the precincts of the People's Chamber without the consent of the presidium.

Art. 68. Members of the People's Chamber shall not require leave in order to perform their functions.

Persons standing as candidates for a seat in the People's Chamber shall be granted leave necessary to prepare for elections.

Salaries and wages shall continue to be paid.

Art. 69. The members in the People's Chamber shall receive an allowance for expenses, which shall be tax-exempt.

The right to the allowance for expenses may not be waived.

The claim to the allowance for expenses cannot be transferred or seized.

Art. 70. Members in the People's Chamber shall be entitled to free travel over all public transportation facilities.

II. Representation of the Laender

Art. 71. A Laender Chamber will be established to represent the German Laender. In the Laender Chamber, each Land shall have one representative for every 500,000 inhabitants. Each Land shall have at least one representative.

Art. 72. The representatives in the Laender Chamber shall be elected by the Laender legislatures in proportion to the numerical strength of the parties represented in the legislatures. These representatives will serve for the duration of the legislative term of the Land legislature. As a rule, the representatives in the Laender Chamber shall be members of the respective Laender legislature.

The Laender legislatures shall ascertain the wishes of the Laender on matters to be discussed in the Laender Chamber. This shall not operate to affect the rights of the representatives to follow freely the dictates of their conscience, as laid down in the constitutions of the Laender.

Art. 73. The Laender Chamber shall elect its presidium and adopt rules of procedure. The presidium shall consist of the president, his deputies, and the associate members.

Art. 74. The Laender Chamber shall be convened by the President, whenever necessary for the transaction of its business.

The Laender Chamber shall also be convened upon the demand of one-fifth of its members.

Art. 75. The deliberations of the Laender Chamber shall be public. As provided for in the rules of procedure, the public may be excluded if certain items of business are discussed.

Art. 76. The Laender Chamber shall make its decisions by majority, unless this Constitution provides otherwise.

Art. 77. The Laender Chamber may organize all necessary committees, as *provided for in* the rules of procedure.

Art. 78. The Laender Chamber has the right to introduce bills in the People's Chamber. It has the right to reject legislation, as provided in Article 34 of this Constitution.

Art. 79. Members of the national and the Laender governments have the right and upon the demand of the Laender Chamber are required to take part in the deliberations of the Laender Chamber and its committees. They have a right to speak on any matter under discussion if they so request.

The People's Chamber may, for particular reasons, delegate representatives from among their numbers to present the opinion of the People's Chamber to the Laender Chamber; the Laender Chamber has an equal right to present its opinion to the People's Chamber. The Laender Chamber may, if need be, instruct members of the Land Governments to present the attitude of their respective government to the People's Chamber.

Art. 80. Article 67 and subsequent articles of this Constitution concerning the rights of the members of the People's Chamber apply correspondingly to the members of the Laender Chamber.

III. Legislation

Art. 81. Legislation shall be enacted by the People's Chamber, or directly by means of a popular referendum.

Art. 82. Bills shall be introduced by the government, the Laender Chamber, or by members of the People's Chamber. A bill shall require at least two readings.

Art. 83. The Constitution can be amended by legislation.

The People's Chamber may act on legislation to amend the Constitution only if at least two-thirds of the representatives are present, and such enactments require a two-thirds majority of those present.

If an amendment to the Constitution is to be adopted by means of a popular referendum, the assent of the majority of the qualified voters is required.

Art. 84. The Laender Chamber has the right to reject legislation enacted by the People's Chamber. The rejection must be lodged within two weeks after the final vote has been taken in the People's Chamber. Reasons for the rejection must be submitted within an additional two weeks, otherwise it will be presumed that the Laender Chamber will not exercise its right of rejection.

The People's Chamber may override this rejection by upholding its decision after renewed deliberations.

If a two-thirds majority of the voting representatives in the Laender Chamber has decided to reject a measure, such rejection can only be overridden if a two-thirds majority of the voting representatives in the People's Chamber upholds the measure.

In order for the Laender Chamber to reject legislation enacted by the People's Chamber to amend the Constitution, at least two-thirds of the

members of the Laender Chamber must be present, and at least two-thirds thereof must vote for the rejection.

The People's Chamber may override the rejection by upholding its decision with the majority prescribed for amendments to the Constitution.

Art. 85. The president of the People's Chamber shall authenticate all constitutionally enacted laws within the period of one month. They will be promulgated by the President of the Republic in the national law gazette without delay.

The law shall not be authenticated or promulgated, if it has been declared unconstitutional within one month, as provided in Article 66.

Unless otherwise provided, laws go into force on the 14th day after their promulgation.

Art. 86. Authentication and promulgation of a law *shall* be suspended for two months, if requested by one-third of the representatives in the People's Chamber.

Upon expiration of this period, the law shall be authenticated and promulgated unless a request by popular initiative calls for a referendum against the enactment of the law.

Laws declared urgent by the majority of the representatives in the People's Chamber must be authenticated and promulgated despite such public demand.

Art. 87. If the promulgation of a law has been suspended at the instance of at least one-third of the representatives in the People's Chamber, such law shall be submitted to a referendum upon the demand of one-twentieth of the qualified voters.

A referendum shall furthermore be initiated, if requested by one-tenth of the qualified voters, or by recognized political parties or organized political groups which can demonstrate satisfactorily that they represent one-fifth of the qualified voters (popular initiative).

An initiative must refer to a proposed law, which must be submitted to the People's Chamber by the government with a statement of its own position with respect thereto.

A referendum will take place only if the desired law has not been adopted by the People's Chamber in a version with which the petitioners or their representatives are in agreement.

No referendum shall be held on the budget, tax laws, and salary schedules.

A law submitted to a popular referendum is considered as adopted if it receives the assent of a majority of the voters.

A separate law shall regulate the procedure for popular initiative and referendum.

Art. 88. The budget and the economic plan shall be adopted by law. Amnesties require a special law.

Treaties referring to matters of legislation shall be promulgated like laws.

Art. 89. Laws which have been duly promulgated cannot be reviewed by the judges with respect to their constitutionality.

After the review proceedings provided for in Article 66 have been initiated, all pending court proceedings shall be suspended until the review proceedings have been completed.

Art. 90. General administrative regulations required for the implementation of the laws of the Republic will be issued by the government of the Republic, unless the law provides otherwise.

IV. The Government of the Republic

Art. 91. The government of the Republic consists of the minister-president and the ministers.

Art. 92. The minister-president is named by the strongest party in the People's Chamber; he shall form the government. All parties having at least 40 representatives in the Chamber shall be represented by ministers in proportion to their strength.

Should one parliamentary group refuse to be included, the government will be formed without it.

The ministers should be members of the People's Chamber.

The People's Chamber shall approve the government and the program submitted by it.

Art. 93. The members of the government shall be sworn in by the President of the Republic on their assumption of office and pledged to perform their duties impartially for the welfare of the people and in accordance with the Constitution and the laws.

Art. 94. The government and each of its members shall require the confidence of the People's Chamber in order to discharge their duties.

Art. 95. The existence of a government as a body shall be terminated if the People's Chamber passes a motion of no-confidence.

A motion of no-confidence will be voted on only if at the same time the name of the new minister-president is presented with his program. The motion of no-confidence and these proposals will be put to one combined vote.

A vote of no-confidence shall not be effective unless the motion is carried by at least one-half of the legal number of representatives.

Motions of no-confidence must be signed by at least one-fourth of the members of the People's Chamber. A vote on such a motion may not be taken prior to the second day after it was debated and not later than one week after it was presented.

Unless the new government takes office within 21 days after the motion of no-confidence has been carried, that motion shall become void.

If the new government receives a vote of no-confidence, the People's Chamber shall be considered dissolved.

The former government shall continue its functions until the new government has taken office.

Art. 96. A member of the government who receives a vote of no-confidence from the People's Chamber must resign. Unless decided otherwise by the People's Chamber, his functions shall be continued until his successor takes office.

The provision of Article 95, paragraph 3, shall be applied by analogy.

Any member of the government may resign at any time. Unless decided otherwise by the People's Chamber, his official duties shall be discharged by his deputy until a successor has been appointed.

Art. 97. The minister-president will preside over the government and direct its business under rules of procedure to be decreed by the government and communicated to the People's Chamber.

Art. 98. The minister-president shall determine government policy in accordance with the principles laid down by the People's Chamber, to which he shall be responsible for this purpose.

Within the framework of this policy, each minister shall manage the branch entrusted to him independently and shall be personally responsible to the People's Chamber.

Art. 99. The ministers shall refer to the government for deliberation and decision all bills, any matters which must be referred to it under the Constitution or the law, as well as differences of opinion with respect to matters which fall within the competence of more than one minister.

Art. 100. The government shall make decisions by majority vote. In case of a tie, the president shall cast the deciding vote.

V. The President of the Republic

Art. 101. The President of the Republic shall be elected for a term of four years by the People's Chamber and the Laender Chamber meeting in joint session, which shall be called and presided over by the president of the People's Chamber.

Any citizen who has completed his 35th year of age shall be eligible.

Art. 102. When taking office the President of the Republic shall take the following oath before a joint session of the People's Chamber and the Laender Chamber:

"I swear that I will dedicate my strength to the welfare of the German people, that I will defend the Constitution and the laws of the Republic, that I will discharge my duties conscientiously and do justice to all."

Art. 103. The President of the Republic may be recalled before the expiration of his term by a joint resolution of the People's Chamber and the Laender Chamber. Such a resolution shall require a two-thirds majority of the legal number of representatives.

Art. 104. The President of the Republic shall promulgate the laws of the Republic.

He shall receive the oath of office from members of the government upon their assumption of duties.

Art. 105. The President of the Republic shall represent the Republic in international relations.

He shall conclude treaties with foreign countries on behalf of the Republic and sign them.

He shall accredit and receive ambassadors and ministers.

Art. 106. In order to acquire legal effect, all orders and decrees issued by the President of the Republic must be countersigned by the minister-president or the responsible minister.

Art. 107. The President shall exercise the right of pardon on behalf of the Republic. In this function he is advised by a committee of the People's Chamber.

Art. 108. In case the President of the Republic is unable to exercise his office, he shall be replaced by the President of the People's Chamber

currently in the chair. In case such incapacity is likely to last for a protracted period, a substitute will be appointed by law.

In case of a premature termination of the presidency the same rule shall apply until the election of a new president.

VI. Republic and Laender

Art. 109. Each Land must have a constitution which conforms to the basic principles of the Constitution of the Republic, and which provides that the Land legislature is the supreme and sole legislative body in the Land.

The legislative body must be elected by all qualified citizens in universal, equal, direct and secret elections which are in accordance with the principles of proportional representation as laid down in the election law of the Republic.

Art. 110. Any changes in the territory of the Laender and the formation of new Laender within the Republic shall be effected by an amendment to the Constitution of the Republic.

Only an ordinary law will be required in case the Laender immediately affected concur.

An ordinary law will likewise suffice—even if one of the Laender affected does not concur—if the territorial change or the formation of a new Land is demanded by a plebiscite held in the territories concerned.

Art. 111. The Republic may enact uniform legislation in all fields. However, in doing so it shall confine itself to laying down principles, provided this meets the need for uniform regulation.

To the extent that the Republic does not exercise its legislative power, the Laender shall have such power.

Art. 112. The Republic shall have the exclusive right to legislate on the following matters:

- Foreign relations;
- Foreign trade;
- Customs and the free movement of commodities within a unified customs and trade area;
- Citizenship; freedom of movement; immigration and emigration; extradition; passport regulations and laws affecting the status of aliens;
- Legislation on marriage, divorce and status of children; civil law; penal law; structure of the judiciary and court procedure;
- Labor law;
- Transportation;
- Postal, telecommunication and radio service;
- Cinematography and press affairs;
- Currency and coinage, weights, measures and standards;
- Social insurance;
- War and occupation damage and reparations.

Art. 113. Legislation in the field of finance and taxation shall not be such as to infringe upon the existence of the Laender.

Art. 114. German national law shall prevail over Land law.

Art. 115. The laws of the Republic shall, in principle, be carried out by the executive agencies of the Laender, unless otherwise provided

for in the Constitution or by law. The Republic shall, if necessary, establish its own administration by law.

Art. 116. The government of the Republic exercises supervision in those matters with respect to which the Republic has the right to legislate.

The government of the Republic may issue general instructions where the laws of the Republic are not executed by its administrative authorities. For the supervision of the execution of these laws and regulations, it shall be authorized to delegate commissioners to the enforcement authorities. The powers of these commissioners shall be governed by the suitable provisions of Article 65.

Upon the request of the Republic, the Laender governments shall be required to remedy deficiencies discovered in the execution of the laws of the Republic.

Any resultant disagreement shall be reviewed and settled in accordance with the procedure specified in Article 66, paragraph 5.

VII. Administration of the Republic

Art. 117. The maintenance of foreign relations is within the exclusive province of the Republic.

The Laender may conclude treaties with foreign states on matters within the purview of Land legislation. Such treaties are subject to the approval of the People's Chamber.

Treaties with foreign states concerning changes of national boundaries shall be concluded by the Republic, after the consent of the Land affected thereby has been obtained. Boundary changes may only be effected by a law of the Republic, unless a mere rectification of boundaries in uninhabited areas is involved.

Art. 118. Germany shall form a single customs and trade area, bounded by a common customs frontier.

Territories of foreign states or parts of such territories may be included in the German customs area by treaty or conventions. Parts of the German customs area may be excluded therefrom by law.

Any goods in respect of which there is internal free trade within the German customs area, may within this area be freely introduced or carried in transit across the boundaries of German Laender and political subdivisions as well as the territories of foreign states or parts of such territories included in virtue of the preceding paragraph.

Art. 119. Customs and such taxes as are regulated by the laws of the Republic shall be administered by the Republic.

The power to levy taxes shall in principle be vested in the Republic.

The Republic shall levy taxes only to the extent required to cover its own needs.

The Republic shall establish its own organization for the administration of taxes. In conjunction therewith, arrangements shall be made enabling the Laender to safeguard their special interests in the sphere of agriculture, trade, manufacture, and industry.

To the extent required for the uniform and equitable enforcement of *its own tax laws*, the Republic shall enact legislation on the organization

of tax administrations in the Laender, the organization and powers of the authorities entrusted with the enforcement of the tax laws of the Republic, the settlement of accounts with the Laender, and the reimbursement for the administrative costs incurred in the enforcement of the tax laws of the Republic.

Art. 120. Taxes and other levies may be assessed only as provided by law.

Property, income, and excise tax legislation must strike a judicious balance among themselves, and shall be graduated on the basis of social considerations.

Through sharply progressive tax rates on inheritance the amassing of socially harmful fortunes shall be prevented.

Art. 121. The revenues and expenditures of the Republic must be estimated for each fiscal year and provided for in the budget. The budget shall be prepared by legislation before the beginning of the fiscal year.

Art. 122. The Minister of Finance shall, in order to effect clearance of the government, give an accounting to the People's Chamber of the revenues of the Republic and their use. The audit of accounts shall be regulated by national law.

Art. 123. Funds shall be procured by borrowing only for extraordinary needs. The borrowing of such funds and the guaranteeing of loans by the Republic may only be effected on the basis of a national law.

Art. 124. Postal, telecommunication, radio, and railway services shall be administered by the Republic.

The former Reich super-highways and Reich highways as well as all roads for long distance traffic shall be under the control of the Republic.

Art. 125. The control of merchant shipping and the regulation of ocean navigation and aids to navigation shall be administrative functions of the Republic.

VIII. Administration of Justice

Art. 126 (formerly 131). The normal administration of justice shall be exercised by the Supreme Court of the Republic and by the courts of the Laender.

Art. 127 (132). In the exercise of their judicial function, the judges shall be independent and shall be bound only by the Constitution and by the law.

Art. 128 (133). The judges must be persons who, by their qualification and their activity, can furnish the guarantee that they will exercise their office in accordance with the principles laid down in the Constitution.

Art. 129 (134). Through the development of law schools the Republic shall provide an opportunity for members of all classes of the population to become qualified for the profession of judge, attorney, and public prosecutor.

Art. 130 (135). Laymen shall as much as possible be used as judges.

The lay judges shall be elected by the respective legislative body upon their nomination by the democratic parties and organizations.

Art. 131 (136). Judges of the Supreme Court of the Republic and the Attorney-General of the Republic shall be elected by the People's Chamber upon their nomination by the national government.

Judges of the Superior Courts of the Laender [Appellate Courts] and the Attorneys-General of the Laender shall be elected by the Land legislatures upon their nomination by the Laender governments.

All other judges shall be appointed by the Laender governments.

Art. 132 (137). The judges of the Supreme Court and the attorney-general of the Republic may be recalled by the People's Chamber if they violate the Constitution or the laws or commit a serious breach of their duties as judge or public prosecutor.

Such a recall shall be effected after hearing the report of a committee on justice to be set up with the People's Chamber.

The committee on justice shall be composed of the chairman of the legal committee of the People's Chamber, three members of the People's Chamber, two members of the Supreme Court and one member of the attorney-general's office. It shall be presided over by the chairman of the legal committee. The other committee members shall be elected by the People's Chamber for the legislative term. The members of the Supreme Court and the attorney-general's office serving on the committee on justice must not be members of the People's Chamber.

Judges elected by Land legislatures or appointed by Land governments may be recalled by the respective Land legislature. Their recall will be effected after hearing the report of a committee on justice to be set up with the respective Land legislature. The committee on justice shall be composed of the chairman of the legal committee of the Land legislature, three members of the Land legislature, two members of the Superior Court and one member of the attorney-general's office of the respective Land. It shall be presided over by the chairman of the legal committee. The other committee members shall be elected by the respective Land legislature for the duration of the legislative term. The members of the Supreme Court and the attorney-general's office must not be members of the Land legislature.

The judges appointed by Land governments may under the same conditions be recalled by the respective Land government, provided that the consent of the Land legislature's committee on justice has been obtained.

Art. 133. (138). All court proceedings shall be public.

In matters involving a threat to public security and order or public morals, the court may order the public to be excluded.

Art. 134 (139). No citizen may be conveyed beyond the reach of his lawful judges. Extraordinary courts shall not be permitted. The legislators may set up courts for special matters only if their competence is to comprise categories of persons or issues defined beforehand and in a general way.

Art. 135 (140). Only such penalties may be imposed as have been provided for by law at the time the punishable act was committed.

No penal law shall have retroactive force.

An exception to this rule shall be constituted by measures and the application of provisions which are adopted to stamp out Nazism, Fascism, and militarism or which are necessary for the prosecution of crimes against humanity.

Art. 136 (141). In case of temporary arrests, house searches and seizures connected with preliminary investigations the approval of a judge must be obtained without delay.

It rests with the judge alone to decide on the admissibility and continuance of a privation of liberty. Persons arrested must be brought before a judge at the latest on the day after their apprehension. If detention pending a trial is ordered by him, he must make a periodic review as to whether continued detention is justified.

The reason for the detention shall be communicated to the arrested person at his first examination by a judge and, if he so desires, within an additional 24 hours to a person to be named by him.

Art. 137 (142). The imposition of penalties shall be based on the concept of reformation of persons capable of rehabilitation through collective productive work.

Art. 138 (143). The citizens shall be protected against unlawful administrative measures by virtue of the control exercised by the legislature and through recourse to administrative courts.

The structure and jurisdiction of administrative courts shall be regulated by law.

The principles applying to the election and recall of judges of ordinary courts shall apply to the members of administrative courts in so far as they are pertinent.

IX. Administrative Home-Rule

Art. 139 (126). Municipalities and associated boroughs shall enjoy administrative home-rule subject to the provisions of the laws of the Republic and the *Laender*.

The home-rule functions shall include the framing of policies and the carrying-out of all public measures which affect the economic, social, and cultural life of the municipality or associated boroughs. All functions shall be carried out by the lowest local administrative unit qualified therefor.

Art. 140 (127). Municipalities and associated boroughs shall organize representative bodies on democratic principles.

To assist them committees will be formed in which delegates of the democratic parties and organizations shall have responsible cooperation.

The franchise and procedure in local elections shall be governed by the provisions applying to elections to the People's Chamber and to the *Land* legislatures.

The right to vote may, however, be made dependent on residence in the locality not to exceed half a year by *Land* legislation.

Art. 141 (128). For the due exercise of their functions, the elected executive organs of municipalities and associated boroughs shall require the sanction of the local representative bodies.

Art. 142 (129). Supervision over the administrative home-rule practiced by municipalities and associated boroughs is limited to a review of the statutory compliance of administrative measures and of the observance of democratic administrative principles.

Art. 143 (130). The Republic and the *Laender* may assign certain functions and the application of laws to the municipalities and associated boroughs.

A. Interim and Concluding Provisions

Art. 144. All provisions of this Constitution shall have direct force of law. Any provisions to the contrary are superseded herewith. The provisions superseding them and required to implement the Constitution shall go into force simultaneously with the Constitution. Existing law shall be interpreted in the meaning of this Constitution.

The constitutional liberties and rights may not be interposed against past or future measures adopted to stamp out National Socialism and militarism, or to redress their wrongs.

TEXT OF DRAFT CONSTITUTION OF INDIA¹

as submitted by the Drafting Committee
to the President of the Constituent Assembly
February 21, 1948

(This document was in process of adoption with various modifications throughout the years 1948 and 1949. Final adoption was planned for October 2, 1949, the birthday of Mahatma Gandhi; and the proclamation of India as an independent sovereign republic was planned for January 26, 1950.)

PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this _____ of _____
(_____ day of May, 1948 A.D.), do HEREBY ADOPT, ENACT
AND GIVE TO OURSELVES THIS CONSTITUTION:

PART I

THE UNION AND ITS TERRITORY AND JURISDICTION

1. (1) India shall be a Union of States.
- (2) The States shall mean the States for the time being specified in Parts I, II and III of the First Schedule.
- (3) The territory of India shall comprise—
 - (a) The territories of the States;
 - (b) The territories for the time being specified in Part IV of the First Schedule; and
 - (c) Such other territories as may be acquired.
2. Parliament may, from time to time, by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit.
3. Parliament may by law—

¹ From the official copy printed by the Manager, Govt. of India Press, New Delhi, 1948.

- (a) Form a new State by separation of territory from a State or by uniting two or more States or parts of States;
- (b) Increase the area of any State;
- (c) Diminish the area of any State;
- (d) Alter the boundaries of any State;
- (e) Alter the name of any State:

Provided that no Bill for the purpose shall be introduced in either House of Parliament except by the Government of India and unless

(a) Either—

(i) A representation in that behalf has been made to the President by a majority of the representatives of the territory in the Legislature of the State from which the territory is to be separated or excluded; or

(ii) A resolution in that behalf has been passed by the Legislature of any State whose boundaries or name will be affected by the proposal to be contained in the Bill; and

(b) Where the proposal contained in the Bill affects the boundaries or name of any State, other than a State for the time being specified in Part III of the First Schedule, the views of the Legislature of the State both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President; and where such proposal affects the boundaries or name of any State for the time being specified in Part III of the First Schedule, the previous consent of the State to the proposal has been obtained.

4. (1) Any law referred to in article 2 or article 3 of this Constitution shall contain such provisions for the amendment of the First Schedule as may be necessary to give effect to the provisions of the law and may also contain such incidental and consequential provisions as Parliament may deem necessary.

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 304.

PART II

CITIZENSHIP

5. At the date of commencement of this Constitution—

(a) Every person who or either of whose parents or any of whose grandparents was born in the territory of India as defined in this Constitution and who has not made his permanent abode in any foreign State after the first day of April, 1947; and

(b) Every person who or either of whose parents or any of whose grandparents was born in India as defined in the Government of India Act, 1935 (as originally enacted), or in Burma, Ceylon or Malaya, and who has his domicile in the territory of India as defined in this Constitution,

shall be a citizen of India, provided that he has not acquired the citizenship of any foreign State before the date of commencement of this Constitution.

Explanation.—For the purposes of clause (b) of this article, a person shall be deemed to have his domicile in the territory of India—

(i) If he would have had his domicile in such territory under Part II of the Indian Succession Act, 1925, had the provisions of that Part been applicable to him, or

(ii) If he has, before the date of commencement of this Constitution, deposited in the office of the District Magistrate a declaration in writing of his desire to acquire such domicile and has resided in the territory of India for at least one month before the date of the declaration.

6. Parliament may, by law, make further provision regarding the acquisition and termination of citizenship and all other matters relating thereto.

PART III

FUNDAMENTAL RIGHTS

GENERAL

7. In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India.

8. (1) All laws in force immediately before the commencement of this Constitution in the territory of India, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void:

Provided that nothing in this clause shall prevent the State from making any law for the removal of any inequality, disparity, disadvantage or discrimination arising out of any existing law.

(3) In this article, the expression "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law in the territory of India or any part thereof.

RIGHTS OF EQUALITY

9. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex¹ or any of them.

In² particular, no citizen shall, on grounds only of religion, race, caste, sex or any of them, be subject to any disability, liability, restriction or condition with regard to—

(a) Access to shops, public restaurants, hotels and places of public entertainment, or

(b) The use of wells, tanks³, roads and places of public resort maintained wholly or partly out of the revenues of the State⁴ or dedicated to the use of the general public.

(2) Nothing in this article shall prevent the State from making any special provision for women and children.

¹ The words "or place of birth" were inserted here in this article as adopted Nov. 29, 1948.

² The beginning of this paragraph was changed to read: "No citizen shall, on the basis only of these grounds be subject . . ." in the article as adopted Nov. 29, 1948.

³ The words "bathing ghats" were inserted here in this article as adopted Nov. 29, 1948.

⁴ The words "the revenues of the State" were changed to read "State Funds" in the article as adopted Nov. 29, 1948.

10. (1) There shall be equality of opportunity for all citizens in matters of employment¹ under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth² or any of them, be ineligible for any³ office under the State.

(3) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the State, are not adequately represented in the services under the State.

(4) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

11. "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

12. (1) No title shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, title or office of any kind from or under any foreign State.

13. (1) Subject to the other provisions of this article, all citizens shall have the right—

- (a) To freedom of speech and expression;
- (b) To assemble peaceably and without arms;
- (c) To form associations or unions;
- (d) To move freely throughout the territory of India;
- (e) To reside and settle in any part of the territory of India;
- (f) To acquire, hold and dispose of property; and
- (g) To practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) of this article shall affect the operation of any existing law, or prevent the State from making any law, relating to libel, slander, defamation, sedition or any other matter which offends against decency or morality or undermines the authority or foundation of the State.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, imposing in the interests of public order restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, imposing, in the interests of the general public, restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law, or prevent the State from making any

¹ The words "of employment" were changed to read "relating to employment or appointment to office" in the article as adopted Nov. 30, 1948.

² The word "residence" was inserted here in the article as adopted Nov. 30, 1948.

³ The words "for any" were changed to read "or discriminated against for any employment or" in the article as adopted Nov. 30, 1948.

law, imposing restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any aboriginal tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, imposing in the interests of public order, morality or health, restrictions on the exercise of the right conferred by the said sub-clause and in particular prescribing, or empowering any authority to prescribe, the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business.

14. (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law at the time of the commission of the offence.

(2) No person shall be punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

15. No person shall be deprived of his life or personal liberty except according to procedure established by law, nor shall any person be denied equality before the law or the equal protection of the laws within the territory of India.

16. Subject to the provisions of article 244 of this Constitution and of any law made by Parliament, trade, commerce and intercourse throughout the territory of India shall be free.

17. (1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes. In imposing such service the State shall not make any discrimination on the ground of race, religion, caste or class.

18. No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

RIGHTS RELATING TO RELIGION

19. (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

Explanation.—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

(2) Nothing in this article shall affect the operation of any existing law or preclude the State from making any law—

(a) Regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) For social welfare and reform or for throwing open Hindu religious institutions of a public character to any class or section of Hindus.

20. Every religious denomination or any section thereof shall have the right—

(a) To establish and maintain institutions for religious and charitable purposes;

- (b) To manage its own affairs in matters of religion;
- (c) To own and acquire movable and immovable property; and
- (d) To administer such property in accordance with law.

21. No person may be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

22. (1) No religious instruction shall be provided by the State in any educational institution wholly maintained out of State funds:

Provided that nothing in this clause shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(2) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person, or if such person is a minor, his guardian has given his consent thereto.

(3) Nothing in this article shall prevent any community or denomination from providing religious instruction for pupils of that community or denomination in an educational institution outside its working hours.

CULTURAL AND EDUCATIONAL RIGHTS

23. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script and culture of its own shall have the right to conserve the same.

(2) No minority whether based on religion, community or language shall be discriminated against in regard to the admission of any person belonging to such minority into any educational institution maintained by the State.

(3) (a) All minorities whether based on religion, community or language shall have the right to establish and administer educational institutions of their choice.

(b) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion, community or language.

RIGHT TO PROPERTY

24. (1) No person shall be deprived of his property save by authority of law.

(2) No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for the payment of compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined.

(3) Nothing in clause (2) of this article shall affect—

- (a) The provisions of any existing law, or
- (b) The provisions of any law which the State may hereafter make for the purpose of imposing or levying any tax or for the promotion of public health or the prevention of danger to life or property.

RIGHT TO CONSTITUTIONAL REMEDIES

25. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders in the nature of the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2) of this article.

(4) The rights guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

26. Parliament may by law determine to what extent any of the rights guaranteed in this Part shall in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

27. Notwithstanding anything elsewhere contained in this Constitution, Parliament shall have, and the Legislature of a State for the time being specified in Part I or Part III of the First Schedule shall not have, power to make laws—

- (a) With respect to any of the matters which under this Part are required to be provided for by legislation by Parliament, and

- (b) For prescribing punishment for those acts which are declared to be offences under this Part;

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws to provide for such matters and for prescribing punishment for such acts:

Provided that any law in force in the territory of India or in any part thereof with respect to any of the matters referred to in clause (a) of this article or providing for punishment for any act which is declared to be an offence under this Part shall continue in force therein until altered or repealed or amended by Parliament or other competent authority.

PART IV

DIRECTIVE PRINCIPLES OF STATE POLICY

28. In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III of this Constitution.

29. The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

30. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which

justice, social, economic and political, shall inform all the institutions of the national life.

31.¹ The State shall, in particular, direct its policy towards securing—

- (i) That the citizens, men and women equally, have the right to an adequate means of livelihood;
- (ii) That the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (iii) That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (iv) That there is equal pay for equal work for both men and women;
- (v) That the strength and health of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (vi) That childhood and youth are protected against exploitation and against moral and material abandonment.

32. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness, disablement, and other cases of undeserved want.

33. The State shall make provision for securing just and humane conditions of work and for maternity relief.

34.² The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

35. The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

36. Every citizen is entitled to free primary education and the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

37. The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation.

38. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.

39. It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by Parliament by law to be of national importance, from spoliation, destruction, removal, disposal or export, as the case may be, and to preserve and maintain according to law made by Parliament all such monuments or places or objects.

40. The State shall promote international peace and security by the prescription of open, just and honourable relations between nations, by

¹ In this article as adopted on Dec. 9, 1948, the following additional section was added: "31A. The State shall take steps to organize village parihayats and endow them with such powers and authority as may be necessary to enable them to function as units of self government".

² In this article as adopted Dec. 9, 1948 there was added a clause calling upon the State to endeavor to promote "cottage industries on cooperative lines in rural areas".

the firm establishment of the understandings of international law as the actual rule of conduct among governments and by the maintenance of justice and respect for treaty obligations in the dealings of organised people with one another.

PART V

THE UNION

CHAPTER I

The Executive

The President and Vice-president

41. There shall be a President of India.

42. (1) The executive power of the Union shall be vested in the President and may be exercised by him in accordance with the Constitution and the law.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of India shall be vested in the President and the exercise thereof shall be regulated by law.

(3) Nothing in this article shall—

(a) Be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or

(b) Prevent Parliament from conferring by law functions on authorities other than the President.

43. The President shall be elected by the members of an electoral college consisting of—

(a) The members of both Houses of Parliament, and

(b) The elected members of the Legislatures of the States.

44. (1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

(2) For the purpose of securing such uniformity the number of votes which each elected member of Parliament and of the Legislature of each State is entitled to cast at such election shall be determined in the following manner:—

(a) Every elected member of the Legislature of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of elected members of the Legislature;

(b) If, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) of this clause shall be further increased by one;

(c) Each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislatures of the States under sub-clauses (a) and (b) of this clause by the total number of such members, fractions exceeding one-half being counted as one and other fractions being disregarded.

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

Explanation.—In this article, the expression “the Legislature of a State” means, where the Legislature is bicameral, the Lower House of the Legislature, and the expression “population” means the population as ascertained at the last preceding census.

45. The President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) The President may, by resignation under his hand addressed to the Chairman of the Council of States and the Speaker of the House of the People, resign his office;

(b) The President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 50 of this Constitution;

(c) The President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

46. A person who holds, or who has held, office as President shall be eligible for re-election to that office once, but only once.

47. (1) No person shall be eligible for election as President unless he—

(a) Is a citizen of India,

(b) Has completed the age of thirty-five years, and

(c) Is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office or position of emolument under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this clause a person shall not be deemed to hold any office or position of emolument by reason only that—

(a) He is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

(b) He is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or, where there are two Houses of the Legislature of the State, to the Lower House of the Legislature, and if not less than three-fourths of the members of the Legislature or House, as the case may be, are elected.

48. (1) The President shall not be a member either of Parliament or of the Legislature of any State, and if a member of Parliament or of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in Parliament or such Legislature, as the case may be, on the date on which he enters upon his office as President.

(2) The President shall not hold any other office or position of emolument.

(3) The President shall have an official residence and there shall be paid to the President such emoluments and allowances as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments and allowances as are specified in the Second Schedule.

(4) The emoluments and allowances of the President shall not be diminished during his term of office.

49. Every President and every person acting as President or discharging the functions of the President shall before entering upon his

office make and subscribe in the presence of the Chief Justice of India an affirmation or oath in the following form, that is to say—

“I, A. B., do solemnly affirm (or swear) that I will faithfully execute the office of President (or discharge the functions of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India.”

50. (1) When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament.

(2) No such charge shall be preferred unless—

(a) The proposal to prefer such charge is contained in a resolution which has been moved after a notice in writing signed by not less than thirty members of the House has been given of their intention to move the resolution, and

(b) Such resolution has been supported by not less than two-thirds of the total membership of the House.

(3) When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed, supported by not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed.

51. (1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall be entitled to hold office for the full term of five years as provided in article 45 of this Constitution.

52. There shall be a Vice-President of India.

53. The Vice-President shall be ex-officio Chairman of the Council of States and shall not hold any other office or position of emolument:

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 54 of this Constitution, he shall not perform the duties of the office of Chairman of the Council of States.

54. (1) In the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of the, President, have all the powers and immunities of the President.

55. (1) The Vice-President shall be elected by the members of both Houses of Parliament assembled at a joint meeting in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

(2) The Vice-President shall not be a member either of Parliament or of the Legislature of any State, and if a member of Parliament or of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in Parliament or such Legislature, as the case may be, on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless he—

- (a) Is a citizen of India;
- (b) Has completed the age of thirty-five years; and
- (c) Is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office or position of emolument under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this clause, a person shall not be deemed to hold any office or position of emolument by reason only that—

(a) He is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

(b) He is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or, where there are two Houses of the Legislature of the State, to the Lower House of such Legislature, and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

(5) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.

(6) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill such vacancy shall be entitled to hold office for the full term of five years as provided in article 56 of this Constitution.

56. The Vice-President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) A Vice-President may, by writing under his hand addressed to the President, resign his office;

(b) A Vice-President may be removed from his office for incapacity or want of confidence by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(c) A Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

57. Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

58. (1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

59. (1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence—

- (a) In all cases where the punishment or sentence is by a Court Martial;
- (b) In all cases where the punishment or sentence is for an offence under any law relating to a matter with respect to which Parliament has, and the Legislature of the State in which the offence is committed has not, power to make laws;
- (c) In all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of clause (1) of this article shall affect the power conferred by law on any officer of the Armed Forces of India to suspend, remit or commute a sentence passed by a Court Martial.

(3) Nothing in sub-clause (c) of clause (1) of this article shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor or the Ruler of the State under any law for the time being in force.

60. (1) Subject to the provisions of this Constitution, the executive power of the Union shall extend—

- (a) To the matters with respect to which Parliament has power to make laws; and
- (b) To the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

Provided that the executive power referred to in sub-clause (a) of this clause shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State to matters with respect to which the Legislature of the State has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything contained in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

Council of Ministers

61. (1) There shall be a Council of ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.

(2) The question whether any, and if so what, advice was tendered by ministers to the President shall not be inquired into in any court.

62. (1) The Prime Minister shall be appointed by the President and the other ministers shall be appointed by the President on the advice of the Prime Minister.

(2) The ministers shall hold office during the pleasure of the President.

(3) The Council shall be collectively responsible to the House of the People.

(4) Before a minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(5) A minister who, for any period of six consecutive months, is not a member of either House of Parliament shall at the expiration of that period cease to be a minister.

(6) The salaries and allowances of ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determine, shall be as specified in the Second Schedule.

The Attorney-General for India

63. (1) The President shall appoint a person, who is qualified to be appointed a judge of the Supreme Court, to be Attorney-General for India.

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

Conduct of Government Business

64. (1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

65. It shall be the duty of the Prime Minister—

(a) To communicate to the President all decisions of the Council of ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) To furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) If the President so requires, to submit for the consideration of the Council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.

CHAPTER II

Parliament

General

66. There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People.

67. (1) The Council of States shall consist of two hundred and fifty members of whom—

- (a) Fifteen members shall be nominated by the President in the manner provided in clause (2) of this article; and
- (b) The remainder shall be representatives of the States:

Provided that the total number of representatives of the States for the time being specified in Part III of the First Schedule shall not exceed forty per cent of this remainder.

(2) The members to be nominated by the President under sub-clause (a) of clause (1) of this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely,—

- (a) Literature, art, science and education;
- (b) Agriculture, fisheries and allied subjects;
- (c) Engineering and architecture;
- (d) Public administration and social services.

(3) The representatives of each State for the time being specified in Part I or Part III of the First Schedule in the Council of States shall—

(a) Where the Legislature of the State has two Houses, be elected by the elected members of the Lower House;

(b) Where the Legislature of the State has only one House, be elected by the elected members of that House; and

(c) Where there is no House of the Legislature for the State, be chosen in such manner as Parliament may by law prescribe.

(4) The representatives of the States for the time being specified in Part II of the First Schedule in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

(5) (a) Subject to the provisions of articles 292 and 293 of this Constitution, the House of the People shall consist of not more than five hundred representatives of the people of the territories of the States directly chosen by the voters.

(b) For the purpose of sub-clause (a), the States of India shall be divided, grouped or formed into territorial constituencies and the number of representatives to be allotted to each such constituency shall be so determined as to ensure that there shall be not less than one representative for every 750,000 of the population and not more than one representative for every 500,000 of the population:

Provided that the ratio of the total number of representatives of the States for the time being specified in Part III of the First Schedule to their total population shall not be in excess of the ratio of the total number of representatives of the States for the time being specified in Parts I and II of that Schedule to the total population of such States.

(c) The ratio between the number of members to be elected at any time for each territorial constituency and the population of that constituency as ascertained at the last preceding census shall, so far as practicable, be the same throughout India.

(6) The election to the House of the People shall be on the basis of adult suffrage; that is to say, every citizen who is not less than twenty-one years of age and is not otherwise disqualified under this Constitution or under any Act of Parliament on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall be entitled to be registered as a voter at such elections.

(7) Parliament may, by law, provide for the representation in the House of the People of territories other than States.

(8) Upon the completion of each census the representation of the several States in the Council of States and of the several territorial constituencies in the House of the People shall, subject to the provisions of article 289 of this Constitution, be readjusted by such authority, in such manner and with effect from such date as Parliament may, by law, determine.

(9) When States for the time being specified in Part III of the First Schedule are grouped together for the purpose of returning representatives to the Council of States, the entire group shall be deemed to be a single State for the purposes of this article.

68. (1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer, and the expiration of the said period of five years shall operate as the dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by the President for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

69. (1) The Houses of Parliament shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of this article, the President may from time to time—

(a) Summon the Houses or either House of Parliament to meet at such time and place as he thinks fit;

(b) Prorogue the Houses;

(c) Dissolve the House of the People.

70. (1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

71. (1) At the commencement of every session the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House.

72. Every minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either

House, any joint sitting of the Houses and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

Officers of Parliament

73. (1) The Vice-President of India shall be ex-officio Chairman of the Council of States.

(2) The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman thereof, and so often as the office of Deputy Chairman becomes vacant the Council shall choose another member to be Deputy Chairman thereof.

74. A member holding office as Deputy Chairman of the Council of States—

- (a) Shall vacate his office if he ceases to be a member of the Council;
- (b) May at any time, by writing under his hand addressed to the Chairman, resign his office; and
- (c) May be removed from his office for incapacity or want of confidence by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

75. (1) While the office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of the, President under article 54 of this Constitution, the duties of the office shall be performed by the Deputy Chairman, or if the office of Deputy Chairman is also vacant, by such member of the Council of States as the President may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council of States, the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

76. The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof, and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.

77. A member holding office as Speaker or Deputy Speaker of the House of the People—

- (a) Shall vacate his office if he ceases to be a member of the House of the People;
- (b) May at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and
- (c) May be removed from his office for incapacity or want of confidence by a resolution of the House of the People passed by a majority of all the then members of the House:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.

78. (1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker, or if the office of Deputy Speaker is also vacant, by such member of the House of the People as the President may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the House of the People, the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the House, or, if no such person is present, such other person as may be determined by the House, shall act as Speaker.

79. There shall be paid to the Chairman and the Deputy Chairman of the Council of States, and to the Speaker and the Deputy Speaker of the House of the People, such salaries and allowances as may be respectively fixed by Parliament by law, and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Conduct of Business

80. (1) Save as provided in this Constitution, all questions at any sitting or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting, other than the Chairman or Speaker or person acting as such.

The Chairman or Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) If at any time during a meeting of a House, less than one-sixth of the total number of members of the House are present, it shall be the duty of the Chairman or Speaker or person acting as such either to adjourn the House, or to suspend the meeting until at least one-sixth of the members are present.

Disqualifications of Members

81. Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, a declaration according to the form set out for the purpose in the Third Schedule.

82. (1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) If a member of either House of Parliament—

(a) Becomes subject to any of the disqualifications mentioned in clause (1) of the next succeeding article; or

(b) Resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be,

his seat shall thereupon become vacant.

(3) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

83. (1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

(a) If he holds any office of profit under the Government of India or the Government of any State other than an office declared by Parliament by law not to disqualify its holder;

(b) If he is of unsound mind and stands so declared by a competent court;

(c) If he is an undischarged insolvent;

(d) If he is under any acknowledgment of allegiance or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; and

(e) If he is so disqualified by or under any law made by Parliament.

(2) For the purposes of this article a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that—

(a) He is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

(b) He is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or where there are two Houses of the Legislature of the State, to the Lower House of such Legislature and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

84. If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 81 of this Constitution, or when he knows that he is not qualified, or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Government of India.

Privileges and Immunities of Members

85. (1) Subject to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

(3) In other respects, the privileges and immunities of members of the Houses shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be such as are enjoyed by the members of the House of Commons of the Parliament of the United Kingdom at the commencement of this Constitution.

(4) The provisions of clauses (1), (2) and (3) of this article shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise take part in the proceedings of, a House of Parliament as they apply in relation to members of Parliament.

86. Members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the date of commencement of this Constitution applicable in the case of members of the Legislature of the Dominion of India.

Legislative Procedure

87. (1) Subject to the provisions of articles 89 and 97 of this Constitution with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament.

(2) Subject to the provisions of articles 88 and 89 of this Constitution, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.

(4) A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.

(5) A Bill which is pending in the House of the People or which having been passed by the House of the People is pending in the Council of States shall, subject to the provisions of article 88 of this Constitution, lapse on a dissolution of the House of the People.

88. (1) If after a Bill has been passed by one House and transmitted to the other House—

(a) The Bill is rejected by the other House; or

(b) The Houses have finally disagreed as to the amendments to be made in the Bill; or

(c) More than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it,

the President may, unless the Bill has lapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1) of this article, no account shall be taken of any time during which both Houses are prorogued or adjourned for more than four days.

(3) Where the President has under clause (1) of this article notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose specified in the notification and, if he does so, the Houses shall meet accordingly.

(4) If at the joint sitting of the two Houses the Bill with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting—

(a) If the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) If the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed;

and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(5) A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.

89. (1) A Money Bill shall not be introduced in the Council of States.

(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of thirty days from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of thirty days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

90. (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

(a) The imposition, abolition, remission, alteration or regulation of any tax;

(b) The regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;

(c) Supply;

(d) The appropriation of the revenues of India;

(e) The declaring of any expenditure to be expenditure charged on the revenues of India or the increasing of the amount of any such expenditure;

(f) The receipt of money on account of the revenues of India or the custody or issue of such money or the audit of the accounts of the Government of India; or

(g) Any matter incidental to any of the matters specified in items (a) to (f) of this clause.

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under the last preceding article, and when it is presented to the President for assent under the next succeeding article, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

91. When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom:

Provided that the President may, not later than six weeks after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provision thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and the Houses shall reconsider the Bill accordingly.

Procedure in Financial Matters

92. (1) The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts and expenditure of the Government of India for that year, in this Part of this Constitution referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) The sums required to meet expenditure described by this Constitution as expenditure charged upon the revenues of India; and

(b) The sums required to meet other expenditure proposed to be made from the revenues of India,

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the revenues of India—

(a) The emoluments and allowances of the President and other expenditure relating to his office;

(b) The emoluments and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;

(c) Debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(d) (i) The salaries, allowances and pensions payable to or in respect of judges of the Supreme Court;

(ii) The pensions payable to or in respect of judges of the Federal Court;

(iii) The pensions payable to or in respect of judges of any High Court which exercises or immediately before the commencement of this Constitution

exercised jurisdiction within any area included in the States for the time being specified in Parts I and II of the First Schedule;

(e) Any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal; and

(f) Any other expenditure declared by this Constitution or by Parliament by law to be so charged.

93. (1) So much of the estimates as relates to expenditure charged upon the revenues of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of these estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People and the House of the People shall have power to assent, or to refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

94. (1) The President shall authenticate by his signature a schedule specifying—

(a) The grants made by the House of the People under the last preceding article;

(b) The several sums required to meet the expenditure charged on the revenues of India, but not exceeding in any case, the sum shown in the statement previously laid before Parliament.

(2) The schedule so authenticated shall be laid before the House of the People, but shall not be open to discussion or vote in Parliament.

(3) Subject to the provisions of the next two succeeding articles, no expenditure from the revenues of India shall be deemed to be duly authorised unless it is specified in the schedule so authenticated.

95. If in respect of any financial year further expenditure from the revenues of India becomes necessary over and above the expenditure theretofore authorised for that year, the President shall cause to be laid before both the Houses of Parliament a supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding articles shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein.

96. If in any financial year expenditure from the revenues of India has been incurred on any service for which the vote of the House of the People is necessary in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the House of the People and the provisions of articles 93 and 94 of this Constitution shall have effect in relation to such demand as they have effect in relation to a demand for a grant.

97. (1) A Bill or amendment making provision for any of the matters specified in items (a) to (f) of clause (1) of article 90 of this Constitution shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.

Procedure Generally

98. (1) Each House of Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under clause (1) of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(3) The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the House of the People, or in his absence such person as may be determined by rules of procedure made under clause (3) of this article, shall preside.

99. (1) In Parliament business shall be transacted in Hindi or English: Provided that the Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may permit any member who cannot adequately express himself in either language to address the House in his mother tongue.

(2) The Chairman of the Council of States or the Speaker of the House of the People may, whenever he thinks fit, make arrangements for making available in the Council of States or the House of the People, as the case may be, a summary in Hindi or English of the speech delivered by a member in any other language and such summary shall be included in the record of the proceedings of the House in which the speech has been delivered.

100. (1) No discussion shall take place in Parliament with respect to the conduct of any judge of the Supreme Court or a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the judge as hereinafter provided.

(2) In this article the reference to a High Court shall be construed as including a reference to any court in a State for the time being specified in Part III of the First Schedule which is a High Court for any of the purposes of Chapter IV of this Part.

101. (1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or other member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

CHAPTER III

Legislative Powers of the President

102. (1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament assented to by the President, but every such Ordinance—

(a) Shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the re-assembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

(b) May be withdrawn at any time by the President.

Explanation:—Where the Houses of Parliament are summoned to re-assemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

CHAPTER IV

The Federal Judicature

103. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and such number of other judges not being less than seven as Parliament may by law prescribe.

(2) Every judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the judges of the Supreme Court and of the High Courts in the States as may be necessary for the purpose and shall hold office until he attains the age of sixty-five years:

Provided that in the case of appointment of a judge, other than the Chief Justice, the Chief Justice of India shall always be consulted:

Provided further that—

(a) A judge may, by writing under his hand addressed to the President, resign his office;

(b) A judge may be removed from his office in the manner provided in clause (4).

(3) A person shall not be qualified for appointment as a judge of the Supreme Court unless he is a citizen of India and—

(a) Has been for at least five years a judge of a High Court or of two or more such courts in succession; or

(b) Has been for at least ten years an advocate of a High Court or of two or more such courts in succession.

Explanation I:—In this clause 'High Court' means a High Court which exercises, or which before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.

Explanation II:—In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person held judicial office after he became an advocate, shall be included.

(4) A judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address supported by not less than two-thirds of the members present and voting has been presented to the President by both Houses of Parliament in the same session for such removal on the ground of proved misbehaviour or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a judge under the last preceding clause.

(6) Every person appointed to be a judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President or some person appointed in that behalf by him a declaration according to the form set out for the purpose in the Third Schedule.

(7) No person who has held office as a judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

104. The judges of the Supreme Court shall be entitled to such salaries and allowances, and to such rights in respect of leave and pensions, as may from time to time be fixed by or under law made by Parliament, and until they are so fixed shall be entitled to such salaries, allowances and rights in respect of leave of absence or pension as are specified in the Second Schedule:

Provided that neither the salary of a judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

105. When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other judges of the court as the President may appoint for the purpose.

106. (1) If at any time there should not be a quorum of the judges of the Supreme Court available to hold or continue any session of the court, the Chief Justice may, after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the court, as an ad hoc judge, for such period as may be necessary, of a judge of a High Court to be nominated by the Chief Justice of India.

(2) It shall be the duty of the judge, who has been so nominated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a judge of the Supreme Court.

107. Notwithstanding anything contained in this Chapter, the Chief Justice of India may at any time, subject to the provisions of this article, request any person who has held the office of a judge of the Supreme Court or of the Federal Court to sit and act as a judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, have

all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a judge of that court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a judge of that court unless he consents so to do.

108. The Supreme Court shall be a court of record and shall sit in Delhi and at such other place or places, if any, as the Chief Justice may, with the approval of the President, from time to time, appoint.

109. Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other Court, have original jurisdiction in any dispute—

- (a) Between the Government of India and one or more States, or
- (b) Between the Government of India and any State or States on one side and one or more other States on the other; or
- (c) Between two or more States,

if in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

Provided that the said jurisdiction shall not extend to—

(i) A dispute to which a State for the time being specified in Part III of the First Schedule is a party, if the dispute arises out of any provision of a treaty, agreement, engagement, sanad or other similar instrument which was entered into or executed before the date of commencement of this Constitution and has, or has been, continued in operation after that date;

(ii) A dispute to which any State is a party, if the dispute arises out of any provision of a treaty, agreement, engagement, sanad or other similar instrument which provides that the said jurisdiction shall not extend to such a dispute.

110. (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in a State, whether in a civil, criminal or other proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Constitution.

(2) Where the High Court has refused to give such a certificate, the Supreme Court may, if it is satisfied that the case involves a substantial question of law as to the interpretation of this Constitution, grant special leave to appeal from such judgment, decree or final order.

(3) Where such a certificate is given, or such leave is granted, any party in the case may appeal to the Supreme Court not only on the ground that any such question as aforesaid has been wrongly decided, but also on any other ground.

Explanation.—For the purposes of this article, the expression “final order” includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

111. (1) An appeal shall lie to the Supreme Court from a judgment, decree or final order in a civil proceeding of a High Court in the territory of India, except the States for the time being specified in Part III of the First Schedule, if the High Court certifies—

- (a) That the amount or value of the subject-matter of the dispute in the court of first instance and still in dispute on appeal was and is not less than twenty thousand rupees; or

- (b) That the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value; or
- (c) That the case is a fit one for appeal to the Supreme Court;

and, where the judgment, decree or final order appealed from affirms the decision of the court immediately below, in any case other than one referred to in clause (c), if the High Court further certifies that the appeal involves some substantial question of law.

(2) Notwithstanding anything contained in article 110 of this Constitution, any party appealing to the Supreme Court under clause (1) of this article may urge as one of the grounds in such appeal that the case involves a substantial question of law as to the interpretation of this Constitution which has been wrongly decided.

112. The Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree or final order in any cause or matter, passed or made by any court or tribunal in the territory of India except the States for the time being specified in Part III of the First Schedule, in cases where the provisions of article 110 or article 111 of this Constitution do not apply.

113. (1) If in the course of any civil, criminal or other proceeding in a High Court in any State for the time being specified in Part III of the First Schedule, any question as to the applicability or interpretation of any law of Parliament or of the Legislature of any State other than such State, which is material for the determination of any issue in such proceeding, arises, the High Court may, either of its own motion or on the application of any of the parties, draw up a statement of the case with particular reference to such question with its own opinion thereon and refer such question to the Supreme Court for opinion.

(2) The Supreme Court may, where any such High Court refuses to state a case under clause (1) of this article, require a case to be so stated.

(3) When a case is so stated either under clause (1) or under clause (2) of this article, the High Court shall stay all proceedings until the opinion of the Supreme Court is received.

(4) The Supreme Court shall, after giving the parties an opportunity of being heard, decide the question so referred, and shall cause a copy of its opinion to be transmitted to the High Court and such High Court shall on receipt thereof proceed to dispose of the case in conformity with the opinion of the Supreme Court.

(5) The Supreme Court may at any stage return any case stated under this article in order that further facts may be stated therein.

114. (1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.

(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

115. Parliament may, by law, confer on the Supreme Court power to issue directions or orders in the nature of the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of article 25 (which relates to the enforcement of fundamental rights) of this Constitution.

116. Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

117. The law declared by the Supreme Court shall be binding on all courts within the territory of India.

118. (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament.

(2) Subject to the provisions of any law made in this behalf by Parliament the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

119. (1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that court for consideration and the court may, after such hearing as it thinks fit, report to the President its opinion thereon.

(2) The President may, notwithstanding anything contained in clause (i) of the proviso to article 109 of this Constitution, refer a dispute of the kind mentioned in the said clause to the Supreme Court for decision, and the Supreme Court shall thereupon, after giving the parties an opportunity of being heard, decide the same and report the fact to the President.

120. All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

121. (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including—

(a) Rules as to the persons practising before the court,

¹A footnote to this section in the report of the drafting committee reads as follows: "In the Supreme Court of the United States of America all the judges of the Court are entitled to participate in the hearing of every matter, and the Court never sits in divisions. The judges of that Court attach the greatest importance to this practice. The Committee is of opinion that this practice should be followed in India at least in two classes of cases, namely, those which involve questions of interpretation of the Constitution and those which are referred to the Supreme Court for opinion by the President. Whether the same practice should not be extended to other classes of cases is a matter which Parliament may regulate by law.

Item (b) giving the Court power to make rules for regulating the time to be allowed to advocates to make their submissions to the Court has also been inserted in the article. This follows the practice prevalent in the Supreme Court of the United States, where the advocates are normally allowed only one hour to argue each case, the rest of their submissions being in writing. (One member of the Committee, Shri Alladi Krishnaswami Ayyar, considers it unnecessary expressly to mention this power in this article, because in his view the position of the Supreme Court in India, in respect of its general appellate functions, is different from that of the Supreme Court of the United States.)"

(b) Rules as to the procedure for hearing appeals and other matters including the time within which appeals to the Court are to be entered and the time to be allowed to advocates appearing before the court to make their submissions in respect thereof,

(c) Rules as to the costs of and incidental to any proceedings in the court and as to the fees to be charged in respect of proceedings therein,

(d) Rules as to the granting of bail,

(e) Rules as to stay of proceedings, and

(f) Rules providing for the summary determination of any appeal which appears to the court to be frivolous or vexatious or brought for the purpose of delay.

(2) The minimum number of judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution, or for the purpose of hearing any reference under article 119 of this Constitution shall be five:

Provided that it shall be open to every judge to sit for the said purposes unless owing to illness, personal interest or other sufficient cause he is unable to do so.

(3) No opinion for the purpose of any report under article 119 of this Constitution and no judgment shall be delivered by the Supreme Court save in open court.

(4) No such report shall be made and no judgment shall be delivered by the Supreme Court save with the concurrence of a majority of the judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a judge who does not concur from delivering a dissenting opinion or judgment.

122. (1) The salaries, allowances and pensions payable to or in respect of the officers and servants of the Supreme Court shall be fixed by the Chief Justice of India in consultation with the President.

(2) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the court, shall be charged upon the revenues of India, and any fees or other moneys taken by the court shall form part of those revenues.

123. (1) References in articles 103 and 106 of this Chapter to a High Court in, or exercising jurisdiction in, a State for the time being specified in Part III of the First Schedule shall be construed as references to any court which the President may, upon being satisfied after consultation with the Supreme Court and the Ruler of the State that such court is a court comparable to any of the High Courts in the States for the time being specified in Part I of that Schedule, declare to be a High Court for the purposes of those articles.

(2) References in articles 110 and 113 of this Chapter to a High Court in a State for the time being specified in Part III of the First Schedule shall be construed as references to the court of final jurisdiction in the State with regard to the proceeding in respect of which an appeal or reference is provided for in those articles.

CHAPTER V

Auditor-General of India

124. (1) There shall be an Auditor-General of India, who shall be appointed by the President and shall only be removed from office in like manner and on the like grounds as a judge of the Supreme Court.

(2) The salary, allowances and other conditions of service of the Auditor-General shall be such as may be determined by Parliament by law and until they are so determined shall be as specified in the Second Schedule:

Provided that neither the salary of an Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(3) The Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(4) The salaries, allowances and pensions payable to or in respect of members of the staff of the Auditor-General shall be fixed by the Auditor-General in consultation with the President.

(5) The salaries, allowances and pensions payable to or in respect of the Auditor-General and members of his staff shall be charged upon the revenues of India.

125. The Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Government of India and of the Government of any State as are or may be prescribed by or under any law made by Parliament.

Explanation.—In this article the expression “law made by Parliament” includes any existing law for the time being in force in the territory of India.

126. The accounts of the Government of India shall be kept in such form as the Auditor-General of India may, with the approval of the President, prescribe and, in so far as the Auditor-General of India may, with the like approval, give any directions with regard to the methods or principles in accordance with which any accounts of the Government of any State ought to be kept, it shall be the duty of the Government of the State to cause accounts to be kept accordingly.

127. The reports of the Auditor-General of India relating to the accounts of the Government of India shall be submitted to the President, who shall cause them to be laid before Parliament.

PART VI

THE STATES IN PART I OF THE FIRST SCHEDULE

CHAPTER I

General

128. In this Part, unless the context otherwise requires, the expression “State” means a State for the time being specified in Part I of the First Schedule.

CHAPTER II

The Executive

The Governor

129. There shall be a Governor for each State.

130. (1) The executive power of the State shall be vested in the Governor and may be exercised by him in accordance with the Constitution and the law.

(2) Nothing in this article shall—

(a) Be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(b) Prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

131. The Governor of a State shall be elected by direct vote of all persons who have the right to vote at a general election for the Legislative Assembly of the State.¹

Alternatively

131. The Governor of a State shall be appointed by the President by warrant under his hand and seal from a panel of four candidates to be elected by the members of the Legislative Assembly of the State, or, where there is a Legislative Council in the State, by all the members of the Legislative Assembly and of the Legislative Council of the State assembled at a joint meeting, in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

132. The Governor shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) A Governor may, by resignation under his hand addressed to the Speaker of the Legislative Assembly of the State or where there are two Houses of the Legislature of the State, to the Speaker of the Legislative Assembly and the Chairman of the Legislative Council of the State, resign his office;

(b) A Governor may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 137 of this Constitution;

(c) A Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

133. A person who holds, or who has held, office as Governor shall be eligible for re-election/re-appointment to that office once, but only once.

134. (1) No person shall be eligible for election as Governor unless he is a citizen of India and has completed the age of thirty-five years.

(2) A person shall not be eligible for election as a Governor of a State—

(a) If he is disqualified for being chosen as a member of the Legislative Assembly of the State:

Provided that it shall not be necessary for any such person to be a resident of the State; or

(b) If he holds any office or position of emolument under the Government of India or the Government of any State for the time being specified in the First Schedule, or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this clause a person shall not be deemed to hold any office or position of emolument by reason only that—

(a) He is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

¹ The Constituent Assembly on May 31, 1949 decided that the governors of the states would be appointed by the President and serve during his pleasure for a term of five years.

(b) He is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or, where there are two Houses of the Legislature of the State, to the Lower House of such Legislature, and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

Alternatively

134. (1) No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

(2) A person shall not be eligible for appointment as Governor of a State if he is disqualified for being chosen as a member of the Legislative Assembly of the State:

Provided that it shall not be necessary for any such person to be a resident of the State.

135. (1) The Governor shall not be a member either of Parliament or of the Legislature of any State for the time being specified in the First Schedule, and if a member of Parliament or of the Legislature of any such State be elected (¹ appointed) Governor, he shall be deemed to have vacated his seat in Parliament or such Legislature, as the case may be, on the date on which he enters upon his office as Governor.

(2) The Governor shall not hold any other office or position of emolument.

(3) The Governor shall have an official residence, and there shall be paid to the Governor such emoluments and allowances as may be determined by the Legislature of the State by law and, until provision in that behalf is so made, such emoluments and allowances as are specified in the Second Schedule.

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

136. Every Governor and every person discharging the functions of the Governor shall before entering upon his office make and subscribe in the presence of the members of the Legislature of the State an affirmation or oath in the following form, that is to say:—

“I, A. B., do solemnly affirm (or swear) that I will faithfully execute the office of Governor (or discharge the functions of the Governor) of _____ (name of the State) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of _____ (name of the State).”

137. (1) When a Governor is to be impeached for violation of the Constitution, the charge shall be preferred by the Legislative Assembly of the State.

(2) No such charge shall be preferred unless—

(a) The proposal to prefer such charge is contained in a resolution which has been moved after a notice in writing signed by not less than thirty members of the Assembly has been given of their intention to move the resolution, and

(b) The resolution has been supported by not less than two-thirds of the total membership of the Assembly.

¹ A note by the Drafting Committee says: “If the second alternative is adopted in article 131, the word ‘appointed’ will have to be used in clause (1) of this article instead of the word ‘elected’.”

(3) When a charge has been so preferred, the Speaker of the Assembly shall inform the Chairman of the Council of States and thereupon the Council of States shall appoint a committee which may consist of or include persons who are not members of the Council, to investigate the charge and the Governor shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed, supported by not less than two-thirds of the total membership of the Council of States declaring that the charge preferred against the Governor has been sustained, such resolution shall have the effect of removing the Governor from his office as from the date on which the resolution is communicated to the Speaker of the Assembly.

¹138. The Legislature of a State may make such provision as it thinks fit (The President may make such provision as he thinks fit) for the discharge of the functions of the Governor of the/a State in any contingency not provided for in this Chapter.

²139. (1) An election (An election to constitute a panel) for the purpose of filling a vacancy caused by the expiration of the term of office of a Governor shall be completed before the expiration of the term.

(2) An election (An election to constitute a panel) for the purpose of filling a vacancy in the office of Governor occurring by reason of his death, resignation or removal or otherwise shall be held as soon as possible after the occurrence of the vacancy and the person elected (appointed) to fill the vacancy shall be entitled to hold office for the full term of five years as provided in article 132 of this Constitution.

³140. (1) All doubts and disputes arising out of or in connection with the election of a Governor (the election to constitute a panel for the purpose of the appointment of a Governor) shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) Subject to the provisions of this Constitution, the Legislature of the State may, by law, regulate any matter relating to or connected with the election of a Governor (the election to constitute a panel for the purpose of the appointment of a Governor).

141. The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment, or to suspend, remit or commute the sentence, of any person convicted of any offence against any law relating to a matter with respect to which the Legislature of the State has power to make laws.

142. Subject to the provisions of this Constitution, the executive power of each State shall extend—

¹A note by the Drafting Committee reads: "If the second alternative is adopted in article 131, the words 'The President may make such provision as he thinks fit' will have to be used in this article instead of the words 'The Legislature of a State may make such provision as it thinks fit' and the words 'a State' will have to be used for the words 'the State' in this article."

²A note by the Drafting Committee reads: "If the second alternative is adopted in article 131, then the words 'An election to constitute a panel' will have to be used in clauses (1) and (2) of this article instead of the words 'An election' and the word 'appointed' will have to be used in clause (2) of this article instead of the word 'elected'."

³A note by the Drafting Committee reads: "If the second alternative is adopted in article 131, then the words 'the election to constitute a panel for the purpose of the appointment of a Governor' will have to be used in clauses (1) and (2) of this article instead of the words 'the election of a Governor'."

(a) To the matters with respect to which the Legislature of the State has power to make laws, and

(b) To the exercise of such rights, authority and jurisdiction as are exercisable under any agreement entered into with any State or group of States for the time being specified in Part III of the First Schedule under article 236 or article 237 of this Constitution.

Council of Ministers

143. (1) There shall be a Council of ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(3) The question whether any, and if so what, advice was tendered by ministers to the Governor shall not be inquired into in any court.

144. (1) The Governor's ministers shall be appointed by him and shall hold office during his pleasure:

Provided that in the States of Bihar, Central Provinces and Berar and Orissa, there shall be a minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

(2) Before a minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(3) A minister who, for any period of six consecutive months, is not a member of the Legislature of the State shall at the expiration of that period cease to be a minister.

(4) In choosing his ministers and in his relations with them the Governor shall be generally guided by the Instructions set out in the Fourth Schedule, but the validity of anything done by the Governor shall not be called in question on the ground that it was done otherwise than in accordance with such Instructions.

(5) The salaries and allowances of ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determine, shall be as specified in the Second Schedule.

(6) The functions of the Governor under this article with respect to the appointment and dismissal of ministers shall be exercised by him in his discretion.

The Advocate-General for the State

145. (1) The Governor of each State shall appoint a person who is qualified to be appointed a judge of a High Court, to be Advocate-General for the State.

(2) It shall be the duty of the Advocate-General to give advice to the Government of the State upon such legal matters and to perform such other duties of a legal character as may from time to time be referred or

assigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) The Advocate-General shall retire from office upon the resignation of the Chief Minister in the State, but he may continue in office until his successor is appointed or he is reappointed.

(4) The Advocate-General shall receive such remuneration as the Governor may determine.

Conduct of Government Business

146. (1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

147. It shall be the duty of the Chief Minister of each State—

(a) To communicate to the Governor of the State all decisions of the Council of ministers relating to the administration of the affairs of the State and proposals for legislation;

(b) To furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and

(c) If the Governor so requires, to submit for the consideration of the Council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.

CHAPTER III

The State Legislature

General

148. (1) For every State there shall be a Legislature which shall consist of the Governor; and

(a) In the States of ————,¹ two Houses,

(b) In other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly and where there is only one House, it shall be known as the Legislative Assembly.

149. (1) Subject to the provisions of articles 294 and 295 of this Constitution the Legislative Assembly of each State shall be composed of members chosen by direct election.

(2) The election shall be on the basis of adult suffrage; that is to say, every citizen who is not less than twenty-one years of age and is not otherwise disqualified under this Constitution or any law made by the Legislature of the State on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall be entitled to be registered as a voter at such elections.

¹ A note by the Drafting Committee reads: "The names of these States will be filled in when it has been ascertained which of the States are to have two Houses."

(3) The representation of each territorial constituency in the Legislative Assembly of a State shall be on the basis of the population of that constituency as ascertained at the last preceding census and shall, save in the case of the autonomous districts of Assam, be on a scale of not more than one representative for every lakh of the population:

Provided that the total number of members in the Legislative Assembly of a State shall in no case be more than three hundred or less than sixty.

(4) Upon the completion of each census, the representation of the several territorial constituencies in the Legislative Assembly of each State shall, subject to the provisions of article 289 of this Constitution, be readjusted by such authority, in such manner and with effect from such date as the Legislature of the State may by law determine:

Provided that such readjustment shall not affect representation to the Legislative Assembly until the dissolution of the then existing Assembly.

150. (1) The total number of members in the Legislative Council of a State having such a Council shall not exceed twenty-five per cent of the total number of members in the Legislative Assembly of that State.

(2) Of the total number of members in the Legislative Council of a State—

(a) One-half shall be chosen from panels of candidates constituted under clause (3) of this article;

(b) One-third shall be elected by the members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote; and

(c) The remainder shall be nominated by the Governor.

(3) Before the first general election and, thereafter, before each triennial election under clause (2) of article 151 of this Constitution to the Legislative Council of a State, five panels of candidates shall be formed, of which one shall contain the names of representatives of universities in the State and the remaining four shall respectively contain the names of persons having special knowledge or practical experience in respect of the following subjects, namely:—

(a) Literature, art and science;

(b) Agriculture, fisheries and allied subjects;

(c) Engineering and architecture;

(d) Public administration and social services.

(4) Each panel of candidates constituted under clause (3) of this article shall contain at least twice the number to be elected from such panel.

(5) For bye-elections clauses (3) and (4) of this article shall have effect subject to such adaptations and modifications as may be prescribed by the Legislature of the State by law.

151. (1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and the expiration of the said period of five years shall operate as a dissolution of the Assembly.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as may be one-third of the members thereof shall retire as soon as may be on the expiration of every third year in accordance with the provisions made in that behalf by the Legislature of the State by law.

152. A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he is, in the case of a seat in a Legislative

Assembly, not less than twenty-five years of age, and in the case of a seat in a Legislative Council, not less than thirty-five years of age.

153. (1) The House or Houses of the Legislature of the State shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of this article, the Governor may from time to time—

(a) Summon the Houses or either House to meet at such time and place as he thinks fit;

(b) Prorogue the House or Houses;

(c) Dissolve the Legislative Assembly.

(3) The functions of the Governor under subclauses (a) and (c) of clause (2) of this article shall be exercised by him in his discretion.

154. (1) The Governor may address the Legislative Assembly or in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

155. (1) At the commencement of every session, the Governor shall address the Legislative Assembly or in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the cause of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for a discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House.

156. Every minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses and any joint sitting of the Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

Officers of The State Legislature

157. Every Legislative Assembly of a State shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof, and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

158. A member holding office as Speaker or Deputy Speaker of an Assembly—

(a) Shall vacate his office if he ceases to be a member of the Assembly;

(b) May at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) May be removed from his office for incapacity or want of confidence by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

159. (1) While the office of Speaker is vacant the duties of the office shall be performed by the Deputy Speaker, or if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Governor may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the Assembly, the Deputy Speaker or, if he is also absent such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

160. The Legislative Council of every State having such Council, shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

161. A member holding office as Chairman or Deputy Chairman of a Legislative Council—

(a) Shall vacate his office if he ceases to be a member of the Council;

(b) May at any time by writing under his hand addressed, if such member is the Chairman, to the Deputy Chairman, and if such member is the Deputy Chairman, to the Chairman, resign his office; and

(c) May be removed from his office for incapacity or want of confidence by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

162. (1) While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or if the office of Deputy Chairman is also vacant by such member of the Council as the Governor may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council, the Deputy Chairman or, if he is also absent such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

163. There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly and to the Chairman and the Deputy Chairman of the Legislative Council such salaries and allowances as may be respectively fixed by the Legislature of the State by law, and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Conduct of Business

164. (1) Save as provided in this Constitution, all questions in a House or a joint sitting of two Houses of the Legislature of a State shall be determined by a majority of votes of the members present and voting, other than the Speaker or Chairman or person acting as such.

The Speaker or Chairman or person acting as such shall not vote in the first instance but shall have and exercise a casting vote in the case of an equality of votes.

(2) A House of the Legislature of a State shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature of a State shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(3) If at any time during a meeting of the Legislative Assembly or the Legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman or person acting as such either to adjourn the House or to suspend the meeting until there is a quorum.

The quorum shall be ten members or one-sixth of the total number of members of the House, whichever is greater.

Disqualifications of Members

165. Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor or some person appointed in this behalf by him, a declaration according to the form set out for the purpose in the Third Schedule.

166. (1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member both of Parliament and of the Legislature of a State and if a person is chosen a member both of Parliament and of the Legislature of a State, then, at the expiration of such period as may be specified in rules made by the Governor of the State, that person's seat in the Legislature of the State shall become vacant, unless he has previously resigned his seat in Parliament.

(3) If a member of a House of the Legislature of a State—

(a) Becomes subject to any of the disqualifications mentioned in clause (i) of the next succeeding article; or

(b) Resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be,

his seat shall thereupon become vacant.

(4) If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

167. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State—

(a) If he holds any office of profit under the Government of India or the Government of any State for the time being specified in the First Schedule other than an office declared by the Legislature of the State by law not to disqualify its holder;

(b) If he is of unsound mind and stands so declared by a competent court;

(c) If he is an undischarged insolvent;

(d) If he is under any acknowledgment of allegiance or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power;

(e) If he is so disqualified by or under any law made by the Legislature of the State.

(2) For the purposes of this article, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State for the time being specified in the First Schedule by reason only that—

(a) He is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

(b) He is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or where there are two Houses of the Legislature of the State, to the Lower House of such Legislature and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

168. If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 165 of this Constitution, or when he knows that he is not qualified or that he is disqualified for membership thereof or that he is prohibited from so doing by the provisions of any law made by the Legislature of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State.

Privileges and Immunities of Members

169. (1) Subject to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State.

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.

(3) In other respects the privileges and immunities of members of a House of the Legislature of a State shall be such as may from time to time be defined by the Legislature by law, and until so defined, shall be such as are enjoyed by the members of the House of Commons of the Parliament of the United Kingdom at the commencement of this Constitution.

(4) The provisions of clauses (1), (2) and (3) of this article shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise take part in the proceedings of, a House of the Legislature of a State as they apply in relation to members of that Legislature.

170. Members of the Legislative Assembly and the Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislature of the State by law, and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the date of commencement of this Constitution applicable in the case of members of the Provincial Legislative Assembly for that State.

Legislative Procedure

171. (1) Subject to the provisions of articles 173 and 182 of this Constitution with respect to Money Bills and other financial Bills, a Bill may originate in either House of the Legislature of a State which has a Legislative Council.

(2) Subject to the provisions of articles 172 and 173 of this Constitution, a Bill shall not be deemed to have been passed by the Houses of the Legislature of a State having a Legislative Council unless it has been agreed to by both Houses either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof.

(4) A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

(5) A Bill which is pending in the Legislative Assembly of a State, or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

172. (1) If after a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council, more than six months elapse from the date of the reception of the Bill by the Council without the Bill being passed by both Houses, the Governor may, unless the Bill has lapsed by reason of a dissolution of the Legislative Assembly, summon the Houses to meet in a joint sitting for the purposes of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1) of this article, no account shall be taken of any time during which both Houses are prorogued or adjourned for more than four days.

(3) If at the joint sitting of the two Houses summoned in accordance with the provisions of this article the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting—

(a) If the Bill has not been passed by the Legislative Council with amendments and returned to the Legislative Assembly, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) If the Bill has been so passed and returned by the Legislative Council, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed;

and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

173. (1) A Money Bill shall not be introduced in a Legislative Council.

(2) After a Money Bill has been passed by the Legislative Assembly of a State having a Legislative Council, it shall be transmitted to the Legislative Council for its recommendations, and the Legislative Council shall within a period of thirty days from the date of its receipt of the Bill return the Bill to the Legislative Assembly with its recommendations, and the Legislative Assembly may thereupon either accept or reject all or any of the recommendations of the Legislative Council.

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly.

(4) If the Legislative Assembly does not accept any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by the Legislative Assembly without any of the amendments recommended by the Legislative Council.

(5) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within the said period of thirty days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the Legislative Assembly.

174. (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

(a) The imposition, abolition, remission, alteration or regulation of any tax;

(b) The regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State;

(c) Supply;

(d) The appropriation of the revenues of the State;

(e) The declaring of any expenditure to be expenditure charged on the revenues of the State, or the increasing of the amount of any such expenditure;

(f) The receipt of money on account of the revenues of the State or the custody or issue of such money or the audit of the accounts of the State; or

(g) Any matter incidental to any of the matters specified in items (a) to (f) of this clause.

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under the last preceding article, and when it is

presented to the Governor for assent under the next succeeding article, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

175. A Bill which has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that where there is only one House of the Legislature and the Bill has been passed by that House, the Governor may, in his discretion, return the Bill together with a message requesting that the House will reconsider the Bill or any specified provisions thereof and, in particular, will reconsider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House shall reconsider it accordingly and if the Bill is passed again by the House with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom.

176. When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that where the Bill is not a Money Bill the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses of the Legislature of the State together with such a message as is mentioned in the proviso to the last preceding article and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by them with or without amendment, it shall be presented again to the President for his consideration.

Procedure in Financial Matters

177. (1) The Governor shall in respect of every financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year, in this Part of this Constitution referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) The sums required to meet expenditure described by this Constitution as expenditure charged upon the revenues of the State; and

(b) The sums required to meet other expenditure proposed to be made from the revenues of the State;

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the revenues of each State—

(a) The emoluments and allowances of the Governor and other expenditure relating to his office;

(b) The emoluments and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly, and in the case of a State having a Legislative Council, also of the Chairman and the Deputy Chairman of the Legislative Council;

(c) Debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(d) Expenditure in respect of the salaries and allowances of judges of any High Court;

(e) Any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(f) Any other expenditure declared by this Constitution or by the Legislature of the State by law to be so charged.

178. (1) So much of the estimates as relates to expenditure charged upon the revenues of a State shall not be submitted to the vote of the Legislative Assembly, but nothing in this clause shall be construed as preventing the discussion in the Legislature of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Governor.

179. (1) The Governor shall authenticate by his signature a schedule specifying—

(a) The grants made by the Assembly under the last preceding article;

(b) The several sums required to meet the expenditure charged on the revenues of the State, but not exceeding in any case, the sum shown in the statement previously laid before the House or Houses.

(2) The schedule so authenticated shall be laid before the Assembly but shall not be open to discussion or vote in the Legislature.

(3) Subject to the provisions of the next two succeeding articles, no expenditure from the revenues of the State shall be deemed to be duly authorised unless it is specified in the schedule so authenticated.

180. If in respect of any financial year further expenditure from the revenues of the State becomes necessary over and above the expenditure theretofore authorised for that year, the Governor shall cause to be laid before the House or Houses a supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding articles shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein.

181. If in any financial year expenditure from the revenues of the State has been incurred on any service for which the vote of the Legislative Assembly is necessary in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Assembly and the provisions of articles 178 and 179 of this Constitution shall have effect in relation to such demand as they have effect in relation to a demand for a grant.

182. (1) A Bill or amendment making provision for any of the matters specified in items (a) to (f) of clause (1) of article 174 of this Constitution shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill.

Procedure Generally

183. (1) A House of the Legislature of a State may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under clause (1) of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Provincial Legislature for the State shall have effect in relation to the Legislature of that State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be.

(3) In a State having a Legislative Council the Governor, after consultation with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the Legislative Assembly, or in his absence such person as may be determined by rules of procedure made under clause (3) of this article, shall preside.

184. (1) In the Legislature of a State, business shall be transacted in the language or languages generally used in that State or in Hindi or in English.

(2) The Speaker of the Legislative Assembly or the Chairman of the Legislative Council may, whenever he thinks fit, make arrangements for making available in the Assembly or the Council, as the case may be, a summary in any language generally used in the State or in English of the speech delivered by a member in any other language, and such summary shall be included in the record of the proceedings of the House in which the speech has been delivered.

185. (1) No discussion shall take place in the Legislature of a State with respect to the conduct of any judge of the Supreme Court or of a High Court in the discharge of his duties.

(2) In this article, the reference to a High Court shall be construed as including a reference to any court in a State for the time being specified in Part III of the First Schedule which is a High Court for any of the purposes of Chapter IV of Part V of this Constitution.

186. (1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or other member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

CHAPTER IV

Legislative Power of the Governor

187. (1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if an Act of the Legislature of the State containing the same provisions would under the provisions of this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance—

(a) Shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council; and

(b) May be withdrawn at any time by the Governor.

Explanation.—Where the Houses of the Legislature of a State having a Legislative Council are summoned to re-assemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void:

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, an Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him.

CHAPTER V

Provisions in Cases of Grave Emergencies

188. (1) If at any time the Governor of a State is satisfied that a grave emergency has arisen which threatens the peace and tranquillity of the State and that it is not possible to carry on the Government of the State in accordance with the provisions of this Constitution, he may, by

proclamation, declare that his functions shall, to such extent as may be specified in the proclamation, be exercised by him in his discretion, and any such proclamation may contain such incidental and consequential provisions as may appear to him necessary or desirable for giving effect to the objects of the proclamation including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State:

Provided that nothing in this clause shall authorise the Governor to suspend, either in whole or in part, the operation of any provision of this Constitution relating to High Courts.

(2) The proclamation shall be forthwith communicated by the Governor to the President who may, thereupon either revoke the proclamation or take such action as he considers appropriate in exercise of the emergency powers vested in him under article 278 of this Constitution.

(3) A proclamation under this article shall cease to operate at the expiration of two weeks unless revoked earlier by the Governor or by the President by public notification.

(4) The functions of the Governor under this article shall be exercised by him in his discretion.

CHAPTER VI

Scheduled and Tribal Areas

189. In this Constitution—

(a) The expression “scheduled areas” means the areas specified in Parts I to VII of the table appended to paragraph 18 of the Fifth Schedule in relation to the States to which those Parts respectively relate;

(b) The expression “tribal areas” means the areas specified in Parts I and II of the table appended to paragraph 19 of the Sixth Schedule.

190. (1) The provisions of the Fifth Schedule shall apply to the administration and control of the scheduled areas and scheduled tribes in any State for the time being specified in Part I of the First Schedule.

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the State of Assam.

CHAPTER VII

The High Courts in the States

191. (1) For the purposes of this Constitution the following courts shall, in relation to the territory of India except the States for the time being specified in Part III of the First Schedule, be deemed to be High Courts, that is to say,—

(a) The High Courts in Calcutta, Madras, Bombay, Allahabad, Patna and Nagpur, the High Court of East Punjab and the Chief Court in Oudh;

(b) Any other court in any of these States constituted or re-constituted under this Chapter as a High Court; and

(c) Any other court in any of these States which may be declared by the appropriate Legislature by law to be a High Court for the purposes of this Constitution:

Provided that if provision is made by the appropriate Legislature for the establishment of a High Court to replace any court or courts mentioned in this clause, then, as from the establishment of the new court,

this article shall have effect as if the new court were mentioned therein in lieu of the court or courts so replaced.

(2) Save as otherwise provided, the provisions of this Chapter shall apply to every High Court referred to in clause (1) of this article.

192. Every High Court shall be a court of record and shall consist of a Chief Justice and such other judges as the President may from time to time deem it necessary to appoint:

Provided that the judges so appointed together with any additional judges appointed by the President in accordance with the following provisions of this Chapter shall at no time exceed in number such maximum as the President may by order fix in relation to that Court.

193. (1) Every judge of a High Court shall be appointed by the President by a warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and in the case of appointment of a judge other than the Chief Justice, the Chief Justice of the High Court of the State, and shall hold office until he attains the age of sixty years or such higher age not exceeding sixty-five years as may be fixed in this behalf by law of the Legislature of the State:

Provided that—

(a) A judge may, by writing under his hand addressed to the Governor, resign his office;

(b) A judge may be removed from his office by the President in the manner provided in clause (4) of article 103 of this Constitution for the removal of a judge of the Supreme Court;

(c) The office of the judge shall be vacated by his being appointed by the President to be a judge of the Supreme Court or of any other High Court.

(2) A person shall not be qualified for appointment as a judge of a High Court unless he is a citizen of India and—

(a) Has held for at least ten years a judicial office in any State in or for which there is a High Court; or

(b) Has been for at least ten years an advocate of a High Court or of two or more such courts in succession.

Explanation I.—For the purposes of this clause—

(a) In computing the period during which a person has been an advocate of a High Court, there shall be included any period during which a person held judicial office after he became an advocate;

(b) In computing the period during which a person has held judicial office in a State for the time being specified in Part I or Part II of the First Schedule or been an advocate of a High Court, there shall be included any period before the commencement of this Constitution during which he held judicial office in any area which was comprised before the fifteenth day of August, 1947, within British India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

Explanation II.—In sub-clauses (a) and (b) of this clause, the reference to a High Court shall be construed as including a reference to a court in a State for the time being specified in Part III of the First Schedule which is a High Court for the purposes of articles 103 and 106 of this Constitution.

194. The provisions of clauses (4) and (5) of article 103 of this Constitution shall apply in relation to a High Court as they apply in relation

to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court.

195. Every person appointed to be a judge of a High Court in a State shall, before he enters upon his office, make and subscribe before the Governor of the State or some person appointed in that behalf by him a declaration according to the form set out for the purpose in the Third Schedule.

196. No person who has held office—

- (a) As a judge of a High Court, or
- (b) As an additional judge or temporary judge of a High Court on having been recruited from the Bar,

shall plead or act in any Court or before any authority within the territory of India.

197. The judges of each High Court shall be entitled to such salaries and allowances, and to such rights in respect of leave and pensions, as may from time to time be fixed by or under law made by the Legislature of the State in which the Court has its principal seat, and until they are so fixed, shall be entitled to such salaries, allowances and rights in respect of leave of absence or pension as are specified in the Second Schedule:

Provided that the salary of the Chief Justice of a High Court shall not be less than four thousand rupees per month and the salary of any other judge of a High Court shall not be less than three thousand and five hundred rupees per month:

Provided further that neither the salary of a judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

198. (1) When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other judges of the court as the President may appoint for the purpose.

(2) (a) When the office of any other judge of a High Court is vacant or when any such judge is appointed to act temporarily as a Chief Justice, or is unable to perform the duties of his office by reason of absence or otherwise, the President may appoint a person duly qualified for appointment as a judge to act as a judge of that court.

(b) The person appointed shall, while so acting, be deemed to be a judge of the court.

(c) Nothing contained in this clause shall prevent the President from revoking any appointment made under this clause.

199. If by reason of any temporary increase in the business of any High Court or by reason of arrears of work in any such court, it appears to the President that the number of the judges of the court should be for the time being increased, the President may, subject to the foregoing provisions of this Chapter with respect to the maximum number of judges, appoint persons duly qualified for appointment as judges to be additional judges of the court for such period not exceeding two years as he may specify.

200. Notwithstanding anything contained in this Chapter, the Chief Justice of a High Court may at any time, subject to the provisions of this article, request any person who has held the office of a judge of that court

to sit and act as a judge of the court, and every such person so requested shall, while so sitting and acting, have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a judge of that court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a judge of that court unless he consents so to do.

201. Subject to the provisions of this Constitution and to any provisions of any law of the appropriate Legislature made by virtue of the powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the judges thereof in relation to the administration of justice in the court, including any power to make rules of court and to regulate the sittings of the court and of members thereof sitting alone or in division courts, shall be the same as immediately before the commencement of this Constitution:

Provided that any restriction to which the exercise of original jurisdiction of any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.

202. (1) Notwithstanding anything contained in article 25 of this Constitution, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue directions or orders in the nature of the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari, for the enforcement of any of the rights conferred by Part III of this Constitution and for any other purpose.

(2) The power conferred on a High Court by clause (1) of this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 25 of this Constitution.

203. (1) Every High Court shall have superintendence over all courts throughout the territories in relation to which it exercises jurisdiction.

(2) The High Court may—

- (a) Call for returns from such courts;
- (b) Direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction, or withdraw such suit or appeal from any such court to itself;
- (c) Make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and
- (d) Prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) of this article shall not be inconsistent with the provisions of any law for the time being in force, and shall require the previous approval of the Governor.

204.¹ If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the inter-

¹ In May 1949 the Constituent Assembly replaced this with an article relating to the power of a High Court to withdraw to itself cases involving substantial questions of law as to the interpretation of the Constitution.

pretation of this Constitution, it shall withdraw the case to itself and dispose of the same.

Explanation.—In this article, “High Court” includes a court of final jurisdiction in a State for the time being specified in Part III of the First Schedule with regard to the case so pending.

205. (1) The salaries, allowances and pensions payable to or in respect of the officers and servants of a High Court shall be fixed by the Chief Justice of the court in consultation with the Governor of the State in which the High Court has its principal seat.

(2) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of officers and servants of the court, and the salaries and allowances of the judges of the court, shall be charged upon the revenues of the State, and any fees or other moneys taken by the court shall form part of those revenues.

206. (1) The Legislature of a State for the time being specified in Part I of the First Schedule may, by law, constitute a High Court for the State or any part thereof or reconstitute in like manner any existing High Court for that State or for any part thereof, or where there are two High Courts in that State, amalgamate those courts.

(2) Where any court is reconstituted, or two courts are amalgamated, as aforesaid, the law made by the Legislature of the State shall provide for—

(a) The continuance in their respective offices of all the existing judges of the court or courts and of such of the existing officers and servants of the court or courts as may be deemed necessary; and

(b) The carrying on before the reconstituted court or the new court of all pending matters,

and may contain such other provision as may appear to be necessary by reason of the reconstitution or amalgamation.

207. Parliament may by law—

(a) Extend the jurisdiction of a High Court to, or

(b) Exclude the jurisdiction of a High Court from,

any State other than, or any area not within, the State in which the High Court has its principal seat:

Provided that no Bill for any such purpose shall be introduced in either House of Parliament unless—

(i) Where the jurisdiction is to be extended to or excluded from a State for the time being specified in Part I or Division A of Part III of the First Schedule or any area within such State, the consent of such other State has been obtained; and

(ii) Where the jurisdiction is to be extended, the consent of the State in which the High Court has its principal seat has also been obtained.

208. Where a High Court exercises jurisdiction in relation to any area outside the State in which it has its principal seat, nothing in this Constitution shall be construed—

(a) As empowering the Legislature of the State in which the court has its principal seat to increase, restrict or abolish that jurisdiction;

(b) As empowering the Legislature of a State for the time being specified in Part I or Part III of the First Schedule in which any such area is situate, to abolish that jurisdiction; or

(c) As preventing the Legislature having power to make laws in that behalf for any such area, from passing, subject to the provisions of clause (b) of this article, such laws with respect to the jurisdiction of the court in relation to that area as it would be competent to pass if the principal seat of the court were in that area.

209. Where a High Court exercises jurisdiction in relation to more than one State or in relation to a State and an area not forming part of the State—

(a) References in this Chapter to the Governor in relation to the judges of a High Court shall be construed as references to the Governor of the State in which the court has its principal seat;

(b) The reference to the approval by the Governor of rules, forms and tables for subordinate courts shall be construed as a reference to the approval thereof by the Governor or the Ruler of the State in which the subordinate court is situate, or if it is situate in an area not forming part of any State for the time being specified in Part I or Part III of the First Schedule, by the President; and

(c) References to the revenues of the State shall be construed as references to the revenues of the State in which the court has its principal seat.

CHAPTER IX

Auditors-in-Chief for the States

210. (1) The Legislature of a State for the time being specified in Part I of the First Schedule may by law provide for the appointment of an Auditor-in-Chief for the State and when such provision has been made an Auditor-in-Chief for that State may be appointed by the Governor in his discretion and the Auditor-in-Chief so appointed shall only be removed from office in like manner and on the like grounds as a judge of the High Court of the State.

(2) An Act passed under clause (1) of this article by the Legislature of a State shall provide that no appointment of an Auditor-in-Chief for the State shall be made until the expiration of at least three years from the date of the publication after assent of the Act.

(3) Every such Act shall prescribe the conditions of service of the Auditor-in-Chief and the duties which shall be performed and the powers which shall be exercised by the Auditor-in-Chief in relation to the accounts of the State and shall declare the salary, allowances and pension payable to or in respect of the Auditor-in-Chief to be charged on the revenues of the State.

(4) The Auditor-in-Chief of the State shall be eligible for appointment as Auditor-General of India or as Auditor-in-Chief for any other State for the time being specified in Part I of the First Schedule but not for any other appointment either under the Government of India or under the Government of any State after he has ceased to hold his office.

(5) The salaries, allowances and pensions payable to or in respect of members of the staff of the Auditor-in-Chief of a State shall be fixed by the Auditor-in-Chief in consultation with the Governor and shall be charged upon the revenues of the State.

(6) Nothing in this article shall derogate from the power of the Auditor-General of India to give such directions in respect of the accounts of the States for the time being specified in Part I of the First Schedule as are mentioned in article 126 of this Constitution.

211. The reports of the Auditor-General of India or the Auditor-in-Chief of the State, as the case may be, relating to the accounts of a State for the time being specified in Part I of the First Schedule shall be submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State.

PART VII

THE STATES IN PART II OF THE FIRST SCHEDULE ¹

212. (1) Subject to the other provisions of this Part, a State for the time being specified in Part II of the First Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or a Lieutenant-Governor to be appointed by him or through the Governor or Ruler of a neighbouring State:

Provided that the President shall not act through the Governor or Ruler of a neighbouring State save after—

- (a) Consulting the Governor or Ruler concerned; and
- (b) Ascertaining in such manner as the President considers most appropriate the wishes of the people of the State to be so administered.

(2) Any State for the time being specified in Part III of the First Schedule whose Ruler has ceded full and exclusive authority, jurisdiction and powers for and in relation to the governance of the State to the Government of India shall be administered in all respects as if the State were for the time being specified in Part II of the First Schedule; and, accordingly, all the provisions of this Constitution relating to States specified in the said Part II shall apply to such State.

213. The President may, by order, create or continue for any State for the time being specified in Part II of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—

- (a) A local Legislature, or
- (b) A Council of Advisers

or both, with such constitution, powers and functions, in each case, as may be specified in the order.

214. Until other provision is made in this behalf by the President, the constitution, powers and functions of the Coorg Legislative Council and the arrangements with respect to revenues collected in Coorg and expenses in respect of Coorg shall remain unchanged.

PART VIII

THE TERRITORIES IN PART IV OF THE FIRST SCHEDULE AND OTHER TERRITORIES NOT SPECIFIED IN THAT SCHEDULE

215. (1) Any territory specified in Part IV of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or other authority to be appointed by him.

(2) The President may make regulations for the peace and good government of any such territory and any regulation so made may repeal or

¹ States which are at present Chief Commissioners' Provinces.

amend any law made by Parliament or any existing law which is for the time being applicable to such territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to such territory.

PART IX

RELATIONS BETWEEN THE UNION AND THE STATES

CHAPTER I

Legislative Relations

Distribution of Legislative Powers

216. (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extraterritorial operation.

217. (1) Notwithstanding anything in the two next succeeding clauses, Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").

(2) Notwithstanding anything in the next succeeding clause, Parliament and, subject to the preceding clause, the Legislature of any State for the time being specified in Part I of the First Schedule also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to the two preceding clauses, the Legislature of any State for the time being specified in Part I of the First Schedule has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included for the time being in Part I or Part III of the First Schedule notwithstanding that such matter is a matter enumerated in the State List.

218. Parliament has the exclusive power to make laws with respect to the constitution, organisation, jurisdiction and powers of the Supreme Court.

219. Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing law with respect to a matter enumerated in the Union List.

220. (1) The Legislature of a State for the time being specified in Part I of the First Schedule has the exclusive power to make laws with respect to the constitution and organisation of any High Court having its principal seat within such State.

(2) Parliament has power to make laws with respect to the constitution and organisation of any High Court having its principal seat in a State for the time being specified in Part II of the First Schedule.

221. (1) Parliament has the exclusive power to make laws regarding the jurisdiction and powers of any High Court with respect to any of the matters enumerated in the Union List.

(2) The Legislature of a State for the time being specified in Part I of the First Schedule in relation to which or in relation to any area within which a High Court exercises jurisdiction has the exclusive power to make laws regarding the jurisdiction and powers of such High Court in relation to such State or area with respect to any of the matters enumerated in the State List.

(3) Parliament and also the Legislature of a State for the time being specified in Part I of the First Schedule in relation to which or in relation to any area within which a High Court exercises jurisdiction have power to make laws regarding the jurisdiction and powers of such High Court in relation to such State or area with respect to any of the matters enumerated in the Concurrent List.

(4) Parliament has power to make laws regarding the jurisdiction and powers of a High Court in relation to a State for the time being specified in Part II of the First Schedule or any area within such State with respect to any of the matters enumerated in the State List.

222. Parliament and also the Legislature of a State for the time being specified in Part I of the First Schedule in which a High Court has its principal seat have power to make laws with respect to the procedure to be followed by such High Court in civil and criminal matters.

223. (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

224. Notwithstanding anything in clause (1) of article 217 of this Constitution—

(a) Parliament shall not have power to make laws with respect to any right relating to posts and telegraphs in any State or group of States for the time being specified in Part III of the First Schedule subsisting at the date of commencement of this Constitution until such right is extinguished by agreement between the Government of India and that State or group of States or is acquired by the Government of India:

Provided that nothing in this clause shall prevent Parliament from making any law for the regulation and control of posts and telegraphs in such State or group of States;

(b) The power of Parliament to make laws with respect to telephones, wireless, broadcasting and other like forms of communication in any State for the time being specified in Part III of the First Schedule shall extend only to the making of laws for their regulation and control;

(c) The power of Parliament to make laws with respect to corporations shall not include the power to make laws with respect to the incorporation, regulation and winding up of corporations owned or controlled by a State for the time being specified in Part III of the First Schedule and carrying on business only within that State.

225. Notwithstanding anything in this Chapter, the power of Parliament to make laws for a State or a group of States for the time being specified in Part III of the First Schedule shall be subject to the terms of any agreement entered into in that behalf by that State or group of States with the Government of India and the limitations contained therein.

226. Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter.

227. (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

228. Nothing in articles 226 and 227 of this Constitution shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, whether passed before or after the law made by the Legislature of the State shall prevail, and the law made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative.

229. (1) If it appears to the Legislature or Legislatures of one or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the State or States except as provided in articles 226 and 227 of this Constitution should be regulated in such State or States by Parliament by law, and a resolution or resolutions to that effect is or are passed by the House or, where there are two Houses, by both the Houses of the Legislature of the State or of each of the States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such State or States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

230. Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for any State or part thereof for implementing any treaty, agreement or convention with any other country or countries.

231. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of any existing law regarding a matter with respect to which Parliament has power to make laws, then, subject to the provisions of clause (2) of this article, the law made

by Parliament, whether passed before or after the law made by the Legislature of such State or, as the case may be, the existing law shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State for the time being specified in Part I of the First Schedule with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or any existing law with respect to that matter, then the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

Restriction on Legislative Powers

232. No Act of Parliament or of a Legislature of a State for the time being specified in Part I of the First Schedule and no provision in any such Act shall be invalid by reason only that some recommendation required by this Constitution was not given, if assent to that Act was given—

(a) Where the recommendation required was that of the Governor, either by the Governor or by the President;

(b) Where the recommendation required was that of the President, by the President.

CHAPTER II

Administrative Relations

General

233. The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for this purpose.

234. (1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

(2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance:

Provided that nothing in this clause shall be taken as restricting the power of Parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

235. (1) Notwithstanding anything in this Constitution, the President may with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends.

(2) A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

236. (1) The Government of India may by agreement with any State for the time being specified in Part III of the First Schedule, but subject to the provisions of this Constitution in regard to the relationship between the Union and such State, undertake any executive, legislative or judicial functions vested in that State.

(2) The Government of India may also enter into such an agreement with the Government of any Indian State not specified for the time being in the First Schedule, but every such agreement shall be subject to, and governed by, the law relating to the exercise of foreign jurisdiction for the time being in force.

Explanation.—In this clause, the expression “Indian State” means any territory, not being part of the territory of India which the President recognises as being such a State.

(3) If an agreement entered into with any State under clause (1) of this article provides for any matter with respect to which provision has been already made in an agreement entered into with such a State under article 237 of this Constitution by the Government of any State for the time being specified in Part I of the First Schedule, then the latter agreement shall, in so far as it provides for such matter, be deemed to be revoked and of no effect on and from the date of conclusion of the former agreement.

(4) On an agreement under clause (1) of this article being concluded between the Union and a State for the time being specified in Part III of the First Schedule—

(a) The executive power of the Union shall extend to any matter specified in that behalf in such agreement;

(b) Parliament shall have power to make laws with respect to any matter specified in that behalf in such agreement; and

(c) The Supreme Court of India shall, subject to the provisions of clause (2) of article 114 of this Constitution, have jurisdiction with respect to any matter specified in that behalf in such agreement.

237. (1) It shall be competent for the Government of a State for the time being specified in Part I of the First Schedule with the previous sanction of the President to undertake, by an agreement made in that

behalf with any State for the time being specified in Part III of the First Schedule, any legislative, executive or judicial functions vested in the latter State, if such agreement relates to a matter which is enumerated in the State List or the Concurrent List.

(2) On an agreement under clause (1) of this article being concluded between a State for the time being specified in Part I of the First Schedule and a State for the time being specified in Part III of that Schedule—

(a) The executive power of the State specified in Part I of the said Schedule shall extend to any matter specified in that behalf in such agreement;

(b) The Legislature of the State specified in Part I of the said Schedule shall have power to make laws with respect to any matter specified in that behalf in such agreement; and

(c) The High Court and other appropriate courts in the State specified in Part I of the said Schedule shall have jurisdiction with respect to any matter specified in that behalf in such agreement.

¹ 238. (1) Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

(2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) of this article shall be proved and the effect thereof determined shall be as provided by law.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law:

Provided that the provisions of clauses (1) and (3) of this article shall not apply to public acts, records and judicial proceedings of, and the final judgment or order delivered or passed by civil courts in, any State for the time being specified in Part III of the First Schedule unless Parliament has, under the terms of any agreement entered into in that behalf by such State with the Union, power to make laws with respect to the matters enumerated in entries 2, 4 and 5 of the Concurrent List.

Interference with Water-Supplies

239. If it appears to the Government of any State for the time being specified in Part I or Part III of the First Schedule that the interests of that State, or of any of the inhabitants thereof, in the water from any natural source of supply in any State have been, or are likely to be affected prejudicially by—

(a) Any executive action or legislation taken or passed, or proposed to be taken or passed; or

(b) The failure of any authority to exercise any of their powers,

with respect to the use, distribution or control of water from that source, the Government of the State may complain to the President.

240. (1) If the President receives such a complaint as aforesaid, he shall, unless he is of opinion that the issues involved are not of sufficient importance to warrant such action, appoint a Commission consisting of such persons having special knowledge and experience in irrigation, engineering, administration, finance or law as he thinks fit, and request that

¹ A note of the Drafting Committee reads: "The Committee is of opinion that this article should more appropriately be included in this Chapter than in Part III dealing with Fundamental Rights."

Commission to investigate in accordance with such instructions as he may give to them, and to report to him on the matters to which the complaint relates, or such of those matters as he may refer to them.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) If it appears to the President upon consideration of the Commission's report that anything therein contained requires explanation, or that he needs guidance upon any point not originally referred by him to the Commission, he may again refer the matter to the Commission for further investigation and a further report.

(4) For the purposes of assisting a Commission appointed under this article in investigating any matters referred to them, the Supreme Court, if requested by the Commission so to do, shall make such orders for the purposes of the proceedings of the Commission as they may make in the exercise of the jurisdiction of the court.

(5) The report of the Commission shall include a recommendation as to the Government or persons by whom the expenses of the Commission and any costs incurred by any State or persons in appearing before the Commission are to be paid and as to the amount of any expenses or costs to be so paid; and an order made by the President under this article, in so far as it relates to expenses or costs, may be enforced as if it were an order made by the Supreme Court.

(6) After considering any report made to him by the Commission the President shall, subject as hereinafter provided, make orders in accordance with the report.

(7) If upon consideration of the Commission's report the President is of opinion that anything therein contained involves a substantial question of law, he shall refer the question to the Supreme Court under article 119 of this Constitution and on receipt of the opinion of the Supreme Court thereon shall, unless the Supreme Court has agreed with the Commission's report, return the report to the Commission together with the opinion and the Commission shall thereupon make such modifications in the report as may be necessary to bring it in accord with such opinion and present the report as so modified to the President.

(8) Effect shall be given, in any State affected, to any order made under this article by the President, and any Act of the Legislature of a State which is repugnant to the order shall, to the extent of the repugnancy, be void.

(9) The President, on application made to him by the Government of any State affected, may at any time, if a Commission appointed as aforesaid so recommend, vary any order made under this article.

241. If it appears to the President that the interests of any State for the time being specified in Part II of the First Schedule, or of any of the inhabitants of such a State, in the water from any natural source of supply in any State for the time being specified in Part I or Part III of the First Schedule have been or are likely to be affected prejudicially by—

(a) Any executive action or legislation taken or passed, or proposed to be taken or passed; or

(b) The failure of any authority to exercise any of their powers,

with respect to the use, distribution or control of water from that source, he may, if he thinks fit, refer the matter to a Commission appointed in

accordance with the provisions of the last preceding article and thereupon those provisions shall apply as if the State for the time being specified in Part II of the First Schedule were a State for the time being specified in Part I of that Schedule and as if a complaint with respect to the matter had been made by the Government of that State to the President.

242. Notwithstanding anything in this Constitution, neither the Supreme Court nor any other court shall have jurisdiction to entertain any action or suit in respect of any matter, if action in respect of that matter might have been taken under any of the three last preceding articles by the Government of a State or the President.

Inter-State Trade and Commerce

¹ 243. No preference shall be given to one State over another nor shall any discrimination be made between one State and another by any law or regulation relating to trade or commerce, whether carried by land, water or air.

¹ 244. Notwithstanding anything contained in article 16 or in the last preceding article of this Constitution, it shall be lawful for any State—

(a) To impose on goods imported from other States any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and

(b) To impose by law such reasonable restrictions on the freedom of trade, commerce or intercourse with that State as may be required in the public interests:

Provided that during a period of five years from the commencement of this Constitution the provisions of clause (b) of this article shall not apply to trade or commerce in any of the commodities mentioned in clause (a) of article 306 of this Constitution.

245. Parliament shall by law appoint such authority as it considers appropriate for the carrying out of the provisions of articles 243 and 244 of this Constitution and confer on the authority so appointed such powers and such duties as it thinks necessary.

Co-ordination between States

246. If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of—

(a) Inquiring into and advising upon disputes which may have arisen between States;

(b) Investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States have a common interest; or

(c) Making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

it shall be lawful for the President by order to establish such a Council and to define the nature of the duties to be performed by it and its organisation and procedure.

¹ A note of the Drafting Committee reads: "The Committee is of opinion that the provisions contained in articles 243 and 244 should more appropriately be included in this Chapter than in Part III dealing with Fundamental Rights."

PART X

FINANCE, PROPERTY, CONTRACTS

CHAPTER I

Finance

Distribution of Revenues between the Union and the States

247. In this Part, unless the context otherwise requires,—

(a) "Finance Commission" means a Finance Commission constituted under article 260 of this Constitution;

(b) "State" does not include a State for the time being specified in Part II of the First Schedule;

(c) References to States for the time being specified in Part II of the First Schedule shall include references to any territory specified in Part IV of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule.

248. Subject to the following provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, the expression "revenues of India" includes all revenues and public moneys raised or received by the Government of India and the expression "revenues of the State" includes all revenues and public moneys raised or received by the Government of a State.

249. (1) Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected—

(a) In the case where such duties are leviable within any State for the time being specified in Part II of the First Schedule, by the Government of India, and

(b) In other cases, by the States within which such duties are respectively leviable.

(2) The proceeds in any financial year of any such duty leviable in that year within any State shall not form part of the revenues of India, but shall be assigned to that State.

250. (1) The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2) of this article, namely:—

(a) Duties in respect of succession to property other than agricultural land;

(b) Estate duty in respect of property other than agricultural land;

(c) Terminal taxes on goods or passengers carried by railway or air;

(d) Taxes on railway fares and freights.

(2) The net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to States for the time being specified in Part II of the First Schedule, shall not form part of the revenues of India, but shall be assigned to the States within which that duty or tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.

251. (1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between

the Union and the States in the manner provided in clause (2) of this article.

(2) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to States for the time being specified in Part II of the First Schedule or the taxes payable in respect of Union emoluments, shall not form part of the revenues of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed.

(3) For the purposes of clause (2) of this article, in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to States for the time being specified in Part II of the First Schedule.

(4) In this article—

(a) "Taxes on income" includes any sum levied by the Government of India in lieu of any tax on income as referred to in clause (a) of the proviso to article 266 of this Constitution but does not include a corporation tax;

(b) "Prescribed" means—

(i) Until a Finance Commission has been constituted, prescribed by the President by order, and

(ii) After a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission.

(c) "Union emoluments" includes all emoluments and pensions payable out of the revenues of India in respect of which income-tax is chargeable.

252. Notwithstanding anything contained in articles 250 and 251 of this Constitution, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the revenues of India.

253. (1) No duties on salt shall be levied by the Union.

(2) Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied and collected by the Government of India, but, if Parliament by law so provides, there shall be paid out of the revenues of India to the States to which the law imposing the duty extends, sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among those States in accordance with such principles of distribution as may be formulated by such law.

254. Notwithstanding anything in article 253 of this Constitution, such proportion, as Parliament may by law determine, of the net proceeds in each year of any export duty on jute or jute-products shall not form part of the revenues of India, but shall be assigned to the States in which jute is grown in accordance with such principles of distribution as may be formulated by such law:

Provided that until Parliament so determine, there shall be assigned to those States out of the net proceeds of the duty in each year such part thereof and in such proportions as may have been fixed in that behalf by

any order made under the Government of India Act, 1935, and in force immediately before the commencement of this Constitution.

255. Such sums, as Parliament may by law provide, shall be charged on the revenues of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States:

Provided that there shall be paid out of the revenues of India as grants-in-aid of the revenues of a State for the time being specified in Part I of the First Schedule such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the scheduled tribes in that State or raising the level of administration of the scheduled areas in that State to that of the administration of the rest of the areas of that State:

Provided further that there shall be paid out of the revenues of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to—

(a) The average excess of expenditure over the revenues during the three years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in Part I of the table appended to paragraph 19 of the sixth Schedule; and

(b) The costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the areas of that State.

256. (1) Notwithstanding anything in article 217 of this Constitution but subject to the provisions of clauses (2) and (3) of this article, the Legislature of a State shall have power to make laws with respect to taxes on professions, trades, callings and employments for the benefit of the State or of a municipality, district board, local board or other local authority therein.

(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two hundred and fifty rupees per annum:

Provided that, if in the financial year immediately preceding the commencement of this Constitution there was in force in any State or any such municipality, board or authority, a tax on professions, trades, callings or employments, the rate, or the maximum rate, of which exceeded two hundred and fifty rupees per annum, such tax may continue to be levied until provision to the contrary is made by Parliament by law, and any law so made by Parliament may be made either generally or in relation to any specified States, municipalities, boards or authorities.

(3) The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.

257. Any taxes, duties, cesses or fees which immediately before the commencement of this Constitution, were being lawfully levied by the

Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament.

258. (1) Notwithstanding anything contained in this Chapter, the Union may, subject to the provisions of clause (2) of this article, enter into an agreement with a State for the time being specified in Part III of the First Schedule with respect to the levy and collection of any tax or duty leviable by the Government of India in such State and for the distribution of the proceeds thereof otherwise than in accordance with the provisions of this Chapter and, when an agreement is so entered into, the provisions of this Chapter shall in relation to such State have effect subject to the terms of such agreement.

(2) An agreement entered into under clause (1) of this article shall continue in force for a period not exceeding ten years from the commencement of this Constitution:

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission he thinks it necessary to do so.

259. (1) In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Auditor-General of India, whose certificate shall be final.

(2) Subject as aforesaid, and to any other express provision in this Chapter, a law made by Parliament or an order of the President may, in any case where under this Part of this Constitution the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

260. (1) The President shall, at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such other time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.

(2) Parliament may, by law, determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

(3) It shall be the duty of the Commission to make recommendations to the President as to—

(a) The distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds;

(b) The principles which should govern the grants-in-aid to the States out of the revenues of India;

(c) The continuance or modification of the terms of any agreement entered into by the Union with any State for the time being specified in Part III of

the First Schedule as respects the levy, collection and distribution of any tax or duty leviable by the Government of India in such State; and

(d) Any other matter referred to the Commission by the President in the interest of sound finance.

(4) The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.

261. The President shall cause every recommendation made by the Finance Commission under the foregoing provisions of this Chapter together with an explanatory memorandum as to the action taken thereon to be laid before Parliament.

Miscellaneous Financial Provisions

262. The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.

263. (1) Rules may be made by the President and by the Governor of a State for the purpose of securing that all moneys received on account of the revenues of India or of the State, as the case may be, shall, with such exceptions, if any, as may be specified in the rules, be paid into the public accounts of India or of the State, and the rules so made may prescribe, or authorise some person to prescribe, the procedure to be followed in respect of the payment of moneys into the said account, the withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with or ancillary to the matters aforesaid.

(2) Notwithstanding anything in this article, Parliament may by law regulate the custody of moneys received on account of the revenues of India, their payment into the public account of India and the withdrawal of moneys from such account, and the Legislature of a State may by law regulate the custody of all moneys received on account of the revenues of the State, their payment into the public account of the State and the withdrawal of moneys from such account, and any rules made under this article shall have effect subject to the provisions of any such law.

264. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by or by any authority within a State:

Provided that until Parliament, by law, otherwise provides, any property of the Union which was immediately before the commencement of this Constitution liable or treated as liable to any such tax shall, so long as that tax continues, continue to be liable or to be treated as liable thereto.

265. Save in so far as Parliament may, by law, otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by Government or other person) which is—

(a) Consumed by the Government of India, or sold to the Government of India for consumption by that Government; or

(b) Consumed in the construction, maintenance or operation of a Union railway by the Government or a railway company operating that railway or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of a Union railway,

and any such law imposing, or authorising the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or operation of a Union railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

266. Subject as hereinafter provided, the Government of a State shall not be liable to Union taxation in respect of lands or buildings situate within the territory of India, or income accruing, arising or received within such territory:

Provided that—

(a) Where a trade or business of any kind is carried on by or on behalf of the Government of a State, nothing in this article shall exempt that Government from any Union tax or the levy of a sum in lieu of such tax in respect of that trade or business or any operations connected therewith, or any income arising in connection therewith, or any property occupied for the purposes thereof;

(b) Nothing in this article shall exempt the Ruler of any State for the time being specified in Part III of the First Schedule from any Union tax in respect of lands, buildings or income being his personal property or personal income.

Explanation.—For the purposes of this article, any operations incidental to the ordinary functions of the Government of a State, such as, the sale of the forest produce of any forest under the control of the Government of a State or of any article produced in any jail within a State, shall not be deemed to be a trade or business carried on by or on behalf of the Government of the State.

267. Where under the provisions of this Constitution the expenses of any court or Commission, or pensions payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India, are charged on the revenues of India or the revenues of a State for the time being specified in Part I of the First Schedule, then if—

(a) In the case of a charge on the revenues of India, the court or Commission serves any of the separate needs of a State so specified, or the person has served wholly or in part in connection with the affairs of such a State; or

(b) In the case of a charge on the revenues of a State so specified, the court or Commission serves any of the separate needs of the Union or another State so specified, or the person has served wholly or in part in connection with the affairs of the Union or another such State,

there shall be charged on and paid out of the revenues of the State or, as the case may be, the revenues of India or of the other State, such contribution in respect of expenses or pensions as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

CHAPTER II

Borrowing

268. The executive power of the Union extends to borrowing upon the security of the revenues of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed.

269. (1) Subject to the provisions of this article, the executive power of a State for the time being specified in Part I of the First Schedule extends to borrowing within the territory of India upon the security of the revenues of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.

(2) The Government of India may, subject to such conditions, if any, as it may think fit to impose, make loans to States for the time being specified in Part I or Part III of the First Schedule or so long as any limits fixed under the last preceding article are not exceeded, give guarantees in respect of loans raised by any such State and any sums required for the purpose of making such loans shall be charged on the revenues of India.

(3) A State for the time being specified in Part I or Part III of the First Schedule may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or its predecessor Government or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.

A consent under this clause may be granted subject to such conditions, if any, as the Government of India may think fit to impose.

CHAPTER III

Property Contracts, Liabilities and Suits

270. As from the commencement of this Constitution, the Government of India and the Government of each State for the time being specified in Part I of the First Schedule shall respectively be the successors of the Government of the Dominion of India and of the corresponding Governors' Provinces as regards all property, assets and liabilities subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.

271. Subject as hereinafter provided, any property in the territory of India except the States for the time being specified in Part III of the First Schedule which, if this Constitution had not come into operation, would have accrued to His Majesty by escheat or lapse, or as bona vacantia for want of a rightful owner, shall, if it is property situate in a State for the time being specified in Part I of the First Schedule, vest in such State for the purposes of the Government of that State, and shall, in any other case, vest in the Union for the purposes of the Government of India.

Provided that any property which at the date when it would have so accrued to His Majesty was in the possession or under the control of the Government of India or the Government of a State for the time being specified in Part I of the First Schedule shall, according as the purposes for which it was then used or held were purposes of the Union or of a State so specified, vest in the Union for the purposes of the Government of India or in the State for the purposes of the Government of that State.

272. (1) The executive power of the Union and of each State for the time being specified in Part I of the First Schedule shall extend, subject to any Act of the appropriate Legislature, to the grant, sale, disposition or mortgage of any property held for the purposes of the Union or of such State, as the case may be, and to the purchase or acquisition of property for those purposes respectively, and to the making of contracts.

(2) All property acquired for the purposes of the Union or of a State for the time being specified in Part I of the First Schedule shall vest in the Union or any such State, as the case may be.

273. (1) All contracts made in the exercise of the executive power of the Union or of a State for the time being specified in Part I of the First Schedule shall be expressed to be made by the President, or by the Governor of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor by such persons and in such manner as he may direct or authorise.

(2) Neither the President, nor the Governor of a State, shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing such contract or assurance on behalf of any of them be personally liable in respect thereof.

274. (1) The Government of India may sue or be sued by the name of the Government of India and the Government of a State for the time being specified in Part I of the First Schedule may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or by the Legislature of such State, enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces might have sued or been sued if this Constitution had not been enacted.

(2) If at the date of commencement of this Constitution—

(a) Any legal proceedings are pending to which the Dominion of India is a party, the Government of India shall be deemed to be substituted for the Dominion in those proceedings; and

(b) Any legal proceedings are pending to which a Province is a Party, the corresponding State shall be deemed to be substituted for the Province in those proceedings.

PART XI

EMERGENCY PROVISIONS

275. (1) If the President is satisfied that a grave emergency exists whereby the security of India is threatened, whether by war or domestic violence, he may by proclamation, make a declaration to that effect.

(2) A proclamation issued under clause (1) of this article (in this Constitution referred to as “a Proclamation of Emergency”)—

(a) May be revoked by a subsequent proclamation;

(b) Shall be laid before each House of Parliament;

(c) Shall cease to operate at the expiration of six months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament.

(3) A Proclamation of Emergency declaring that the security of India is threatened by war or by domestic violence may be made before the actual occurrence of war or of any such violence if the President is satisfied that there is imminent danger thereof.

276. Where a Proclamation of Emergency is in operation, then, notwithstanding anything contained in this Constitution—

(a) The executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;

(b) The power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and imposing duties or authorising the conferring of powers and the imposition of duties upon the Government of India or officers and authorities of the Government of India as respects that matter.

277. The President may, while a Proclamation of Emergency is in operation, by order, direct that all or any of the provisions of articles 249 to 259 of this Constitution shall for such period, not extending in any case beyond the expiration of the financial year in which such proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit.

278. (1) If the President, on receipt of a proclamation issued by the Governor of a State under article 188 of this Constitution, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, he may by proclamation—

(a) Assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or any body or authority in the State other than the Legislature of the State;

(b) Declare that the powers of the Legislature of the State shall be exercisable only by Parliament;

and any such proclamation may contain such incidental and consequential provisions as may appear to him to be necessary or desirable for giving effect to the objects of the proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in that State:

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court or to suspend, either in whole or in part, the operation of any provision of this Constitution relating to High Courts.

(2) Any such proclamation may be revoked or varied by a subsequent proclamation.

(3) A proclamation under this article—

(a) Shall be laid before each House of Parliament;

(b) Except where it is a proclamation revoking a previous proclamation, shall cease to operate at the expiration of six months:

Provided that, if and so often as a resolution approving the continuance in force of such a proclamation is passed by both Houses of Parliament, the proclamation shall, unless revoked, continue in force for a further period of twelve months from the date on which under this clause it would otherwise have ceased to operate, but no such proclamation shall in any case remain in force for more than three years.

(4) Where by a proclamation issued under clause (1) of this article it has been declared that the powers of the Legislature of the State shall be exercisable only by Parliament, it shall be competent—

(a) For Parliament to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Government of India or officers and authorities of the Government of India;

(b) For the President to promulgate Ordinances under article 102 of this Constitution except when both Houses of Parliament are in session.

(5) Any law made by Parliament which Parliament would not but for the issue of a proclamation under this article have been competent to make shall to the extent of the incompetency cease to have effect on the expiration of a period of one year after the proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period unless the provisions which shall so cease to have effect are sooner repealed or re-enacted with or without modification by Act of the Legislature of the State.

279. While a Proclamation of Emergency is in operation, nothing in article 13 of Part III of this Constitution shall restrict the power of the State as defined in that Part to make any law or to take any executive action which the State would otherwise be competent to make or to take.

280. Where a Proclamation of Emergency is in operation, the President may by order declare that the rights guaranteed by article 25 of this Constitution shall remain suspended for such period not extending beyond a period of six months after the proclamation has ceased to be in operation as may be specified in such order.

PART XII

SERVICES UNDER THE UNION AND THE STATES

CHAPTER I

¹ *Services*

281. In this Part, unless the context otherwise requires, the expression "State" means a State for the time being specified in Part I of the First Schedule.

282. (1) Subject to the provisions of clause (2) of this article, Acts of the appropriate Legislature may regulate the recruitment and the conditions of service of persons appointed to public services, and to posts in connection with the affairs, of the Union or any State.

(2) No person who is a member of any civil service or holds any civil post in connection with the affairs of the Government of India or the Government of a State shall be dismissed, removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:

Provided that this clause shall not apply—

(a) Where a person is dismissed, removed, or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) Where an authority empowered to dismiss a person or remove him or reduce him in rank is satisfied that for some reason to be recorded by that authority in writing it is not reasonably practicable to give that person an opportunity of showing cause.

283. Until other provision is made in this behalf under this Constitution, any rules which were in force immediately before the commencement

¹ A note of the Drafting Committee reads: "The Committee is of opinion that detailed provisions with regard to recruitment and conditions of service of persons in Defence services or serving the Union or a State in a civil capacity should not be included in the Constitution but should be left to be regulated by Acts of the appropriate Legislature."

of this Constitution and were applicable to any public service or any post which has continued to exist after the commencement of this Constitution as a service or post under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution.

CHAPTER II

Public Service Commissions

284. (1) Subject to the provisions of this article there shall be a Public Service Commission for the Union and a Public Service Commission for each State.

(2) Two or more States may agree—

(a) That there shall be one Public Service Commission for that group of States; or

(b) That the Public Service Commission for one of the States shall serve the needs of all the States;

and any such agreement may contain such incidental and consequential provisions as may appear necessary or desirable for giving effect to the purposes of the agreement and shall, in the case of an agreement that there shall be one Commission for a group of States, specify by what Governor or Governors the functions which are under this Part of this Constitution to be discharged by the Governor of a State are to be discharged.

(3) The Public Service Commission for the Union if requested so to do by the Governor of a State may, with the approval of the President, agree to serve all or any of the needs of the State.

(4) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Union, or, as the case may be, the State as respects the particular matter in question.

285. (1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission, by the President, and in the case of a State Commission, by the Governor of the State in his discretion:

Provided that at least one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown shall be included.

(2) In the case of the Union Commission, the President and, in the case of a State Commission, the Governor of the State in his discretion, may by regulations—

(a) Determine the number of members of the Commission, their tenure of office and their conditions of service; and

(b) Make provision with respect to the number of members of the staff of the Commission and their conditions of service.

(3) On ceasing to hold office—

(a) The Chairman of the Union Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) The Chairman of a State Commission shall be eligible for appointment as the Chairman or a member of the Union Commission or as the Chairman of another State Commission, but not for any other employment either under the Government of India or under the Government of a State;

(c) No other member of the Union or of any State Commission shall be eligible for any other appointment either under the Government of India or the Government of a State without the approval in the case of an appointment in connection with the affairs of a State, of the Governor of the State and, in the case of any other appointment, of the President.

286. (1) It shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointments to the services of the Union and the services of the State respectively.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The President as respects the All India Services and also as respects other services and posts in connection with the affairs of the Union, and the Governor as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted, but, subject to regulations so made and to the provisions of the next succeeding clause, the Union Commission or, as the case may be, the State Commission shall be consulted—

(a) On all matters relating to methods of recruitment to civil services and for civil posts;

(b) On the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;

(c) On all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;

(d) On any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown, in a civil capacity that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the revenues of India or, as the case may be, the State;

(e) On any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in a civil capacity, and any question as to the amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President or, as the case may be, the Governor may refer to them.

(4) Nothing in this article shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts

are to be allocated as between the various communities in the Union or a State.

287. Subject to the provisions of this article, an Act made by Parliament or by the Legislature of the State may provide for the exercise of additional functions by the Union Public Service Commission, or, as the case may be, by the State Public Service Commission:

Provided that where the Act is made by the Legislature of a State, it shall be a term of such Act that the functions conferred by it shall not be exercisable in relation to any person who is not a member of one of the services of the State except with the consent of the President.

288. The expenses of the Union or a State Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the revenues of India or, as the case may be, the State.

PART XIII

ELECTIONS

289. (1) The superintendence, direction and control of all elections to Parliament and of elections to the offices of President and Vice-President held under this Constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with the elections to Parliament, shall be vested in a Commission to be appointed by the President.

(2) The superintendence, direction and control of all elections to the Legislature of a State for the time being specified in Part I of the First Schedule and of elections to the office of Governor of the State elections to constitute a panel for the purpose of the appointment of a Governor of the State held under this Constitution including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to the Legislature of such State shall be vested in a Commission to be appointed by the Governor of the State.

290. Subject to the provisions of this Constitution, Parliament may, from time to time, by law, make provision with respect to all matters relating to or in connection with elections to either House of Parliament including matters necessary for securing the due constitution of the two Houses of Parliament and the delimitation of constituencies.

291. Subject to the provisions of this Constitution, the Legislature of a State for the time being specified in Part I of the First Schedule may, from time to time, by law, make provision with respect to all matters relating to or in connection with elections to the House or Houses of the Legislature of the State including matters necessary for securing the due constitution of such House or Houses and the delimitation of constituencies.

PART IV

SPECIAL PROVISIONS RELATING TO MINORITIES

292. Seats shall be reserved in the House of the People for—

- (a) The Muslim community and the Scheduled Castes;
- (b) The scheduled tribes in every State for the time being specified in Part I of the first Schedule; and
- (c) The Indian Christian community in the States of Madras and Bombay,

according to the scale prescribed in sub-clause (b) of clause (5) of article 67 of this Constitution.

293. Notwithstanding anything contained in article 67 of this Constitution, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of the community to the House of the People.

294. (1) Seats shall be reserved for—

(a) The Muslim community, the Scheduled Castes and the scheduled tribes (except the scheduled tribes in the autonomous districts of Assam) in the Legislative Assembly of every State for the time being specified in Part I of the First Schedule; and

(b) The Indian Christian community in the Legislative Assemblies of the States of Madras and Bombay,

according to the scale prescribed in clause (3) of article 149 of this Constitution.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for any community in the Legislative Assembly of any State for the time being specified in Part I of the First Schedule shall bear, as nearly as may be, the same proportion to the total number of seats in that Assembly as the population of the community in the State bears to the total population of the State.

Explanation.—All the Scheduled Castes in a State shall be deemed to be a single community for the purposes of this clause and so also all the scheduled tribes in a State.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of the State of Assam shall not comprise any area outside that district.

(6) No person who is not a member of a scheduled tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district¹ [except from the constituency comprising the cantonment and municipality of Shillong].

295. Notwithstanding anything contained in article 149 of this Constitution, the Governor of a State may, if he is of opinion that the Anglo-Indian community is not adequately represented in the Legislative Assembly of the State, nominate such number of members of the community to the Legislative Assembly as he considers appropriate.

296. Subject to the provisions of the next succeeding article the claims of all minority communities shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State for the time being specified in Part I of the First Schedule.

¹ A note of the Drafting Committee reads: "The words within square brackets should be deleted if the words 'excluding the town of Shillong' is retained in item 1 of Part I of the table appended to paragraph 19 of the Sixth Schedule to the Constitution."

297. (1) During the first two years after the commencement of this Constitution, appointments of members of the Anglo-Indian community to posts in the railway, customs, postal and telegraph services of the Union shall be made on the same basis as immediately before the fifteenth day of August 1947.

During every succeeding period of two years, the number of posts reserved for the members of the said community in the said services shall, as nearly as possible, be less by ten per cent than the numbers so reserved during the immediately preceding period of two years:

Provided that at the end of ten years from the commencement of this Constitution all such reservations shall cease.

(2) Nothing in clause (1) shall bar the appointment of members of the Anglo-Indian community to posts other than, or in addition to, those reserved for the community under that clause if such members are found qualified for appointment on merit as compared with the members of other communities.

298. During the first three financial years after the commencement of this Constitution, the same grants, if any, shall be made by the Union and by each State for the time being specified in Part I of the First Schedule for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the 31st day of March 1948.

During every succeeding period of three years the grants may be less by ten per cent than those for the immediately preceding period of three years:

Provided that at the end of ten years from the commencement of this Constitution, such grants, to the extent to which they are a special concession to the Anglo-Indian community, shall cease:

Provided further that no educational institution shall be entitled to receive any grant under this article unless at least forty per cent of the annual admissions therein are made available to members of communities other than the Anglo-Indian community.

299. (1) There shall be a Special Officer for minorities for the Union who shall be appointed by the President, and a Special Officer for minorities for each State for the time being specified in Part I of the First Schedule who shall be appointed by the Governor of the State.

(2) It shall be the duty of the Special Officer for the Union to investigate all matters relating to the safeguards provided for minorities under this Constitution in connection with the affairs of the Union and to report to the President upon the working of the safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before Parliament.

(3) It shall be the duty of the Special Officer for a State so specified to investigate all matters relating to the safeguards provided for minorities under this Constitution in connection with the affairs of the State and to report to the Governor of the State upon the working of the safeguards at such intervals as the Governor may direct and the Governor shall cause all such reports to be laid before the Legislature of the State.

300. (1) The President may at any time and shall, on the expiration of ten years from the commencement of this Constitution, by order, appoint a Commission to report on the administration of the scheduled areas and the welfare of the scheduled tribes in the States for the time being specified in Part I of the First Schedule.

The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions as the President may consider necessary or desirable.

(2) The executive power of the Union shall extend to the giving of directions to such a State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the scheduled tribes in the State.

301. (1) The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be given for the purpose by the Union or any State and the conditions subject to which such grants should be given, and the order appointing such Commission shall define the procedure to be followed by the Commission.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) The President shall cause a copy of the report so presented, together with a memorandum explaining the action taken thereon to be laid before Parliament.

PART XV

MISCELLANEOUS

302. (1) The President or the Governor of a State shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under article 50 of this Constitution:

Provided further that nothing in this clause shall be construed as restricting the right of any person to bring against the Government of India or the Government of a State such proceedings as are mentioned in Chapter III of Part X of this Constitution.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President or the Governor of a State in any court during his term of office.

(3) No process for the arrest or imprisonment of the President or the Governor of a State shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President or the Governor of a State shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President or Governor of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor, as the case may be, or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place

of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

303. (1) In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

(a) "Agricultural income" means agricultural income as defined for the purposes of the enactments relating to Indian income-tax;

(b) "An Anglo-Indian" means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only;

(c) "An Indian Christian" means a person who professes any form of the Christian religion and is not a European or an Anglo-Indian;

(d) "Borrow" includes the raising of money by the grant of annuities, and "loan" shall be construed accordingly;

(e) "Chief Justice" includes in relation to a High Court a Chief Judge;

(f) "Corporation tax" means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:—

(i) That it is not chargeable in respect of agricultural income;

(ii) That no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals;

(iii) That no provision exists for taking the tax so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to, such individuals;

(g) "Corresponding Province" or "corresponding State" means in cases of doubt such Province or State as may be determined by the President to be the corresponding Province or, as the case may be, the corresponding State for the particular purpose in question;

(h) "Debt" includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and "debt charges" shall be construed accordingly;

(i) "Existing law" means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation but does not include any Act of Parliament of the United Kingdom or any Order in Council made under any such Act;

(j) "Federal Court" means the Federal Court constituted under the Government of India Act, 1935;

(k) "Goods" includes all materials, commodities, and articles;

(l) "Guarantee" includes any obligation undertaken before the commencement of this Constitution to make payments in the event of the profits of an undertaking falling short of a specified amount;

(m) "Pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund;

(n) "Public notification" means a notification in the Gazette of India, or, as the case may be, the official Gazette of a State;

(o) "Securities" includes stock;

(p) "Taxation" includes the imposition of any tax or impost, whether general or local or special, and "tax" shall be construed accordingly;

- (q) "Tax on income" includes a tax in the nature of an excess profits tax;
- (r) "Railway" includes a tramway not wholly within a municipal area;
- (s) "Union railway" does not include an Indian State railway but, save as aforesaid, includes any railway not being a minor railway;
- (t) "Indian State railway" means a railway owned by a State for the time being specified in Part III of the First Schedule and either operated by such State, or operated on behalf of such State otherwise than in accordance with a contract made with that State by or on behalf of the Government of India, or any company operating a Union railway;
- (u) "Minor railway" means a railway which is wholly situate in one State and does not form a continuous line of communication with a Union railway, whether of the same gauge or not;
- (v) "Schedule" means a Schedule to this Constitution;
- (w) "Scheduled Castes" means in relation to any State for the time being specified in Part I of the First Schedule such castes, races or tribes or parts of or groups within castes, races or tribes as are specified in the Government of India (Scheduled Castes) Order, 1936, to be scheduled castes for the purposes of the Fifth and Sixth Schedules to the Government of India Act, 1935, in relation to the corresponding Province;
- (x) "Scheduled tribes" means the tribes or communities specified in Parts I to IX of the Eighth Schedule in relation to the States for the time being specified in Part I of the First Schedule to which those Parts respectively relate.

(2) Unless the context otherwise requires, the General Clauses Act, 1897 (X of 1897), shall apply for the interpretation of this Constitution.

(3) Any reference in this Constitution to Acts or laws of, or made by, Parliament or Acts or laws of, or made by, the Legislature of a State for the time being specified in Part I of the First Schedule shall be construed as including a reference to an Ordinance made by the President or, as the case may be, to an Ordinance made by a Governor.

PART XVI

AMENDMENT OF THE CONSTITUTION

304. (1) An amendment of the Constitution may be initiated by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

- (a) Any of the Lists in the Seventh Schedule;
- (b) The representation of States in Parliament; or
- (c) The powers of the Supreme Court.

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States for the time being specified in Part I of the First Schedule and the Legislatures of not less than one-third of the States for the time being specified in Part III of that Schedule.

(2) Notwithstanding anything in the last preceding clause, an amendment of the Constitution seeking to make any change in the provisions of

this Constitution relating to the method¹ of choosing a Governor or the number of Houses of the Legislature in any State for the time being specified in Part I of the First Schedule may be initiated by the introduction of a Bill for the purpose in the Legislative Assembly of the State or, where the State has a Legislative Council, in either House of the Legislature of the State, and when the Bill is passed by the Legislative Assembly or, where the State has a Legislative Council, by both Houses of the Legislature of the State, by a majority of the total membership of the Assembly or each House, as the case may be, it shall be submitted to Parliament for ratification, and when it is ratified by each House of Parliament by a majority of the total membership of that House it shall be presented to the President for assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill.

Explanation.—Where a group of States is for the time being specified in Part III of the First Schedule, the entire group shall be deemed to be a single State for the purposes of the proviso to clause (1) of this article.

305. Notwithstanding anything contained in article 304 of this Constitution, the provisions of this Constitution relating to the reservation of seats for the Muslims, the Scheduled Castes, the scheduled tribes or the Indian Christians either in Parliament or in the Legislature of any State for the time being specified in Part I of the First Schedule shall not be amended during a period of ten years from the commencement of this Constitution and shall cease to have effect on the expiration of that period unless continued in operation by an amendment of the Constitution.

PART XVII

TEMPORARY AND TRANSITIONAL PROVISIONS

306. Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely:—

(a) Trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, paper (including newsprint), foodstuffs (including edible oil-seeds and oil), petroleum and petroleum products, spare parts of mechanically propelled vehicles, coal, iron, steel and mica;

(b) Relief and rehabilitation of displaced persons;

(c) Offences against laws with respect to any of the matters mentioned in clauses (a) and (b) of this article, inquiries and statistics for the purposes of any of those matters, jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court;

but any law made by Parliament, which Parliament would not but for the provisions of this article have been competent to make, shall to the extent of the incompetency cease to have effect on the expiration of the said period except as respects things done or omitted to be done before the expiration thereof.

307. (1) Subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commence-

¹ A note by the Drafting Committee reads: "The words 'the method of choosing a Governor or' should be retained in this clause only if the second alternative in article 131 is not adopted."

ment of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.

(2) The President may, by Order, provide that, as from such date as may be specified in the Order, any law in force in the territory of India or in any part of such territory shall, until repealed or amended by a competent Legislature or other competent authority, have effect subject to such adaptations and modifications, whether by way of repeal or amendment, as appear to him to be necessary or expedient for bringing the provisions of that law into accord with the provisions of this Constitution and any such adaptation or modification shall not be questioned in any court of law.

Explanation I.—The expression “law in force” in this article shall include a law passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

Explanation II.—Any law passed or made by a Legislature or other competent authority in the territory of India which immediately before the commencement of this Constitution has extra territorial effect as well as effect in the territory of India shall, subject to any such adaptations and modifications as aforesaid, continue to have extra-territorial effect.

Explanation III.—Nothing in this article shall be construed as continuing any temporary Act in force beyond the date fixed for its expiration.

308. (1) The judges of the Federal Court holding office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on that date the judges of the Supreme Court and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave and pensions as are provided for under article 104 of this Constitution in respect of the judges of the Supreme Court.

(2) All suits, appeals and proceedings, civil or criminal, pending in the Federal Court at the commencement of this Constitution shall stand removed to the Supreme Court, and the Supreme Court shall have jurisdiction to hear and determine the same and the judgments and orders of the Federal Court delivered or made before the commencement of this Constitution shall have the same force and effect as if they had been delivered or made by the Supreme Court.

(3) On and from the date of commencement of this Constitution the jurisdiction of His Majesty in Council to entertain and dispose of appeals and petitions from or in respect of any decree or order of any court within the territory of India including the jurisdiction in respect of criminal matters exercisable by His Majesty by virtue of His Majesty's prerogative shall cease, and all appeals and other proceedings pending before His Majesty in Council on the said date shall be transferred to, and disposed of, by the Supreme Court.

(4) Further provision may be made by Parliament by law to give effect to the provisions of this article.

309. All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of India shall continue to exercise their respective functions subject to the provisions of this Constitution.

310. The judges of a High Court in any Province holding office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on that date the judges of the High Court in the corresponding State, and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave and pensions as are provided for under article 197 of this Constitution in respect of the judges of such High Court.

311. (1) Until both Houses of Parliament have been duly constituted and summoned to meet for the first session under this Constitution, the Constituent Assembly of the Dominion of India shall itself exercise all the powers and perform all the duties conferred on Parliament and may in particular make law for securing the due constitution of the two Houses of Parliament and for providing for all matters relating to or connected with elections to either House of Parliament including the delimitation of constituencies and for such other ancillary and consequential matters as may be deemed necessary for the purpose of giving effect to the provisions of this Constitution.

Explanation:—For the purposes of this clause, the Constituent Assembly of the Dominion of India includes members chosen to fill casual vacancies in that Assembly in accordance with rules made in that behalf by the Assembly, but shall not include any members representing any territory not included in the First Schedule.

(2) The Speaker of the Constituent Assembly when functioning as the Dominion Legislature under the Government of India Act, 1935, shall continue to be the Speaker of such Assembly functioning under clause (1) of this article.

(3) Such person as the Constituent Assembly of the Dominion of India shall have elected in this behalf shall be the provisional President of India until a President has been elected in accordance with the provisions contained in Chapter I of Part V of this Constitution and has entered upon his office.

(4) All persons holding office as ministers for the Dominion of India immediately before the commencement of this Constitution shall after such commencement become members of the Council of ministers of the provisional President under this Constitution.

312. (1) Until the House or Houses of the Legislature of each State for the time being specified in Part I of the First Schedule has or have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, the House or Houses of the Legislature of the corresponding Province functioning immediately before the commencement of this Constitution shall exercise the powers and perform the duties conferred by the provisions of this Constitution on the House or Houses of the Legislature of such State.

(2) Any person holding office as Speaker of the Legislative Assembly or President of the Legislative Council of a Province immediately before the commencement of this Constitution shall after such commencement be the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, of the corresponding State for the time being specified in Part I of the First Schedule while such Assembly or Council functions under clause (1) of this article.

(3) Any person holding office as Governor in any Province immediately before the commencement of this Constitution shall after such com-

commencement be the provisional Governor of the corresponding State for the time being specified in Part I of the First Schedule until a new Governor has been elected¹ (appointed) in accordance with the provisions of Chapter II of Part VI of this Constitution and has entered upon his office.

(4) All persons holding office as ministers in a Province immediately before the commencement of this Constitution shall after such commencement become members of the Council of ministers of the provisional Governor of the corresponding State for the time being specified in Part I of the First Schedule.

313. (1) Subject to the provisions of clause (1) of article 311 of this Constitution, the President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by Order, direct that this Constitution shall, during such period as may be specified in the Order, have effect subject to such adaptations, whether by way of variation, addition, or repeal, as he may deem to be necessary or expedient:

Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V of this Constitution.

(2) Every order made under clause (1) of this article shall be laid before each House of Parliament.

PART XVIII

COMMENCEMENT AND REPEALS

314. This Constitution shall come into force on

315. The Indian Independence Act, 1947, and the Government of India Act, 1935, including the India (Central Government and Legislature) Act, 1946, and all other enactments amending or supplementing the Government of India Act, 1935, shall cease to have effect.

FIRST SCHEDULE

[ARTICLES 1 and 4]

THE STATES AND THE TERRITORIES OF INDIA

Part I

The territories known immediately before the commencement of this Constitution as the Governors' Provinces of—

1. Madras
2. Bombay
3. West Bengal
4. The United Provinces
5. Bihar
6. East Punjab
7. The Central Provinces and Berar
8. Assam
9. Orissa

¹ A note by the Drafting Committee reads: "If the second alternative is adopted in article 131, the word 'appointed' will have to be used in this clause instead of the word 'elected'."

Part II

The territories known immediately before the commencement of this Constitution as the Chief Commissioners' Provinces of—

1. Delhi,
2. Ajmer-Merwara including Panth Piploda,
3. Coorg.

Part III

Division A

The following Indian States—

1. Mysore
2. Kashmir
3. Gwalior
4. Baroda
5. Travancore
6. Cochin
7. Udaipur
8. Jaipur
9. Jodhpur
10. Bikaner
11. Alwar
12. Kotah
13. Indore
14. Bhopal
15. Rewa
16. Kolhapur
17. Patiala
18. Mayurbhanj
19. United State of Kathiawar

Division B ¹

All other Indian States which were within the Dominion of India immediately before the commencement of this Constitution.

Part IV

The Andaman and Nicobar Islands.

SECOND SCHEDULE

[ARTICLES 48 (3), 62 (6), 79, 104, 124 (2), 135 (3),
145 (5), 163 and 197]

Part I

Provisions as to the President and the Governors of States for the time being specified in Part I of the First Schedule.

(Not printed)

¹ A note by the Drafting Committee reads: "It is not possible to enumerate each of the States because owing to mergers of various kinds many of the States may disappear in larger units. It will be necessary however to enumerate all the States by name before the Constitution is finally adopted."

Part II

Provisions as to the Ministers for the Union and for the States in Part I of the First Schedule.

(Not printed)

Part III

Provisions as to the Speaker and the Deputy Speaker of the House of the People, and the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the Legislative Assemblies of States in Part I of the First Schedule and the Chairman and the Deputy Chairman of the Legislative Councils of such States.

(Not printed)

Part IV

Provisions as to the Judges of the Supreme Court and of the High Courts.

(Not printed)

Part V

Provisions as to the Auditor-General of India

(Not printed)

THIRD SCHEDULE

[ARTICLES 62 (4), 81, 103 (6), 144 (2), 165 and 195]

FORMS OF DECLARATIONS

(Not printed)

FOURTH SCHEDULE

[ARTICLE 144 (4)]

Instructions to the Governors of States in Part I of the First Schedule.

(Not printed)

FIFTH SCHEDULE

[ARTICLES 189 (a) and 190 (1)]

Provisions as to the administration and control of scheduled areas and scheduled tribes.

Part I

General

(Not printed)

Part II

Provisions as to the States of Madras, Bombay, West Bengal, Bihar, the Central Provinces and Berar, and Orissa.

(Not printed)

Part III

Provisions as to the State of the United Provinces
(Not printed)

Part IV

Provisions as to the State of East Punjab
(Not printed)

Part V

Scheduled Areas
(Not printed in full)

Table

I—Madras

The Laccadive Islands (including Minicoy) and the Amindivi Islands.
The East Godavari Agency and so much of the Vizagapatam Agency as is not transferred to Orissa under the provisions of the Government of India (Constitution of Orissa) Order, 1936.

II—Bombay

In the West Khandesh District:—The Navapur Petha, the Akrani Mahal and the villages belonging to the following Mehwassi Chiefs: (1) the Parvi of Kathi, (2) the Parvi of Nal, (3) the Parvi of Singpur, (4) the Walvi of Gaohali, (5) the Wassawa of Chikhli, and (6) the Parvi of Navalpur.

In the East Khandesh District:—The Satpura Hills reserved forest areas.

In the Nasik District:—The Kalvan Taluk and Peint Petha.

In the Thana District:—The Dahanu and Shahapur Talukas and Mokhada and Umbergaon Pethas.

III.—The United Provinces

The Jaunsar-Bawar Pargana of the Dehra Dun District.

The portion of the Mirzapur District south of the Kaimur range.

IV.—East Punjab

Spiti and Lahaul in the Kangra District.

V.—Bihar

The Ranchi and Singhbhum Districts, and the Latehar sub-division of the Palamau District of the Chota Nagpur Division.

The Santal Parganas District excluding the Godda and Deogarh Sub-divisions.

VI.—The Central Provinces and Berar

In the Chanda District, the Ahiri Zamindari in the Sironcha Tahsil and the Dhanora, Dudmala, Gewardha, Jharapapra Khutgaon, Kotgal, Muramgaon, Palasgarh, Rangi, Sirsundi Sonsari, Chandala, Gilgaon, Pai-Muranda and Potegaon Zamindaris in the Garchiroli Tahsil.

The Harrai, Gorakghat, Gorpani, Batkagarh, Bardagarh Partabgarh (Pagara), Almod and Sonpur Jagirs of the Chhindwara District, and the portion of the Pachmarhi Jagir in the Chhindwara District.

The Mandla District.

The Pendra, Kenda, Matin, Lapha, Uprora, Chhuri and Korba Zamindaris of the Bilaspur District.

The Aundhi, Koracha, Panabaras and Ambagarh Chauki Zamindaris of the Drug District.

The Baihar Tahsil of the Balaghat District.

The Melghat Taluk of the Amraoti District.

The Bhainsdehi Tahsil of the Betul District.

VII.—Orissa

The Ganjam Agency Tracts including Khondmals.

The Koraput District.

SIXTH SCHEDULE

[ARTICLES 189 (b) and 190 (2)]

PROVISIONS AS TO THE ADMINISTRATION OF THE
TRIBAL AREAS IN ASSAM

(Not printed in full)

Table

Part I

1. The Khasi and Jaintia Hills District excluding the town of Shillong
2. The Garo Hills District
3. The Lushai Hills District
4. The Naga Hills District
5. The North Cachar Subdivision of Cachar District
6. The Mikir Hills portion of Nowgong and Sibsagar Districts excepting the mouzas of Barpathar and Sarupathar

Part II

1. The Sadiya and Balipara Frontier Tracts.
2. The Tirap Frontier Tract (excluding the Lakhimpur Frontier Tract).
3. The Naga Tribal Area.

SEVENTH SCHEDULE

[ARTICLE 217]

LIST I Union List

(Not printed)

LIST II State List

(Not printed)

LIST III Concurrent List

(Not printed)

EIGHTH SCHEDULE

[ARTICLE 303 (I) (x)]

SCHEDULED TRIBES

Part I

Madras

1. Bagata
2. Bhottadas — Bodo Bhottada, Muria Bhottada and Sano Bhottada
3. Bhumias — Bhuri Bhumia and Bodo Bhumia
4. Bissoy — Barangi Jodia, Bennangi Daduva, Frangi, Hollar, Jhoriya, Kollai, Konde, Paranga, Penga Jodia, Sodo Jodia and Takora
5. Dhakkada
6. Dombs — Andhiya Dombs, Audiniya Dombs, Chonnel Dombs, Christian Dombs, Mirgani Dombs, Oriya Dombs, Ponaka Dombs, Telega and Ummia
7. Gadabas — Boda Gadaba, Cerllam Gadaba, Franji Gadaba, Jodia Gadaba, Olaro Gadaba, Pangi Gadaba and Paranga Gadaba
8. Ghasis — Boda Ghasis and San Ghasis
9. Gondi — Modya Gond and Rajo Gond
10. Goudus — Bato, Bhirithya, Dudhokouria, Hato, Jatako and Joria
11. Kosalya Goudus — Bosothoriya Goudus, Chitti Goudus, Dan-gayath Goudus, Doddu Kamariya, Dudu Kamaro, Ladiya Goudus and Pullosoriya Goudus
12. Magatha Goudus — Bernia Goudu, Boodo Magatha, Don-gayath Goudu, Ladya Goudu, Ponna Magatha and Sana Magatha
13. Seerithi Goudus
14. Holva
15. Jadapus
16. Jatapus
17. Kammaras
18. Khattis-Khatti, Kommaro and Lohara
19. Kodu
20. Kommar
21. Konda Dhoras
22. Konda Kapus
23. Kondareddis
24. Kondhs — Desaya Kondhs, Dongria Kondhs, Kut-tiya Kondhs, Tikiria Kondhs and Yenity Kondhs
25. Kotia — Bartika, Benthoriya, Dhulia or Dulia, Holva Paiko, Putiya, Sanrona and Sidho Paiko

26. Koya or Goud, Raja of Rasha Koyas, Lingadhari with its sub-
sects,—Koyas, (ordinary) and Kottu Koyas
27. Madigas
28. Malas or Agency — Malas or Valmikies
29. Malis — Korchia Malis, Paiko Malis and Pedda
Malis
30. Maune
31. Manna Dhora
32. Mukha Dhora — Nooka Dhora
33. Muli or Muliya
34. Muria
35. Ojulus or Metta Komsalies
36. Omanaito
37. Paigarapu
38. Palasi
39. Palli
40. Pentias
41. Porjas — Bodo, Bonda, Daruva, Didua, Jodia,
Mundili, Pengu, Pydi and Saliya
42. Reddi Dhoras
43. Relli or Sachandi
44. Ronas.
45. Savaras — Kapu Savaras, Khutto Savaras and
Maliya Savaras
46. The residents of the Laccadive, Minicoy and Amindivi Islands

Part II

Bombay

1. Barda
2. Bavacha
3. Bhil
4. Chodhra
5. Dhanka
6. Dhodia
7. Dubla
8. Gamit, or Gamta
9. Gond
10. Kathodi, or Katkari
11. Konkna
12. Koli Mahadeb
13. Mavchi
14. Naikda, or Nayak
15. Pardhi, including Advichincher or Phanse Pardhi
16. Patelia
17. Pomla
18. Powara
19. Rathawa
20. Tadvī Bhil
21. Thakur
22. Valvai
23. Varli
24. Vasava

Part III

West Bengal

1. Botia
2. Chakma
3. Kuki
4. Lepcha
5. Munda
6. Magh
7. Mro
8. Oraon
9. Santal
10. Tippera
11. Any other tribe notified by the Government of West Bengal

Part IV

The United Provinces

1. Dhuinya
2. Baiswar
3. Baiga
4. Gond
5. Kharwar
6. Kol
7. Ojha
8. Any other tribe notified by the Government of the United Provinces

Part V

East Punjab

The Tibetans in Spiti and Lahaul in the Kangra District

Part VI

Bihar

I. A resident of the State of Bihar belonging to any of the following tribes:—

1. Asur
2. Banjara
3. Bathudi
4. Bentkar
5. Binjhia
6. Birhor
7. Birjia
8. Chero
9. Chik Baraik
10. Gadaba
11. Ghatwar
12. Gond
13. Gorait
14. Ho
15. Juang
16. Karmali

17. Kharia
18. Kharwar
19. Khetauri
20. Khond
21. Kisan
22. Koli
23. Kora
24. Korwa
25. Mahli
26. Mal Paharia
27. Munda
28. Oraon
29. Parhiya
30. Santal
31. Sauria Paharia
32. Savar
33. Tharu

II. A resident in any of the following districts or police stations, that is to say, the districts of Ranchi, Singhbhum, Hazaribagh and the Santal Parganas, and the police stations of Arsha, Balarampur, Jhalda, Jaipur Baghmundi, Chandil, Ichagarh, Barahabhum, Patamda Banduan and Manbazar in the district of Manbhum, belonging to any of the following tribes:—

1. Bauri
2. Bhogta
3. Bhuiya
4. Bhumij
5. Ghasi
6. Pan
7. Rajwar
8. Turi

III. A resident in the Dhanbad sub-division or in any of the following police stations in the Manbhum District, that is to say, Purulia, Hura, Pancha, Raghunathpur, Santuri, Nituria, Para, Chas, Chandankiari and Kashipur, belonging to the Bhumij tribe.

Part VII

THE CENTRAL PROVINCES

1. Gond
2. Kavar
3. Maria
4. Muria
5. Halba
6. Pardhan
7. Oraon
8. Binjhar
9. Andh
10. Bharia-Bhumia
11. Koli
12. Bhattra

13. Baiga
14. Kolam
15. Bhil
16. Bhuinhar
17. Dhanwar
18. Bhaina
19. Parja
20. Kamar
21. Bhunjia
22. Nagarchi
23. Ojha
24. Korku
25. Kol
26. Nagasia
27. Sawara
28. Korwa
29. Majhwar
30. Kharia
31. Saunta
32. Kondh
33. Nihal
34. Birhul (or Birhor)
35. Rautia
36. Pando

Part VIII

ASSAM

The following tribes and communities:—

1. Kachari
2. Boro or Boro-Kachari
3. Rabha
4. Miri
5. Lalung
6. Mikir
7. Garo
8. Hajonfi
9. Deori
10. Abor
11. Mishmi
12. Dafia
13. Singpho
14. Khampti
15. Any Naga or Kuki tribe
16. Any other tribe or community notified by the Government of Assam

Part IX

ORISSA

I. A resident of the State of Orissa belonging to any of the following tribes:—

1. Bagata
2. Banjari

3. Chenchu
4. Gadaba
5. Gond
6. Jatapu
7. Khond (Kond)
8. Konda-Dora
9. Koya
10. Paroja
11. Saora (Savar)
12. Oraon
13. Santal
14. Kharia
15. Munda
16. Banjara
17. Binjhia
18. Kisan
19. Koli
20. Kora

II. A resident of any of the following areas, that is to say, the Koraput and Khondmals Districts and the Ganjam Agency belonging to either of the following tribes:—

1. Dom or Dombo
2. Pan or Pano

III. A resident of the Sambalpur District belonging to any of the following tribes:—

1. Bauri
2. Bhuiya
3. Bhumij
4. Ghasi
5. Turi
6. Pan or Pano



PROPOSED CONSTITUTION FOR THE STATE OF ISRAEL¹

Released December 10, 1948

PREAMBLE

WE, THE PEOPLE OF ISRAEL,

Humbly giving thanks to Almighty God for having delivered us from the burden of exile and brought us back to our ancient land;

Recalling the tenacious endurance of the generations of the Exile and their heroic sacrifices for the survival of our People and the preservation of its spiritual heritage;

Gratefully remembering the faithful remnant who maintained the continuity of Jewish settlement in Palestine throughout the centuries, and the inspired efforts of the pioneers of the national revival;

Resolved to rebuild our Commonwealth in accordance with the ideals of peace and righteousness of the Prophets of Israel, to welcome home every Jew who seeks entry, and to promote the security and well-being of all who dwell within our gates;

¹New York Times December 10, 1948.

HAVE ADOPTED THE FOLLOWING CONSTITUTION:

I General Provisions

Art. 1. The name of the State is ISRAEL.

Art. 2. The State of Israel is a sovereign, independent, democratic republic.

Art. 3. The State of Israel is designed to be the National Home of the Jewish People and shall admit every Jew who desires to settle within its territory subject to such regulative provisions as may from time to time be enacted by the Chamber of Deputies.

Art. 4. (1) All persons within the jurisdiction of the State of Israel shall be entitled in equal measure to the protection of the law. No discrimination of any kind shall be made by the State between the inhabitants of the State on the grounds of race, religion, language or sex.

(2) All citizens of the State shall enjoy equal civic and political rights. No citizen shall be at a disadvantage as a candidate for public office or employment or in the matter of promotion, on account of his race, religion, language or sex.

(3) No land, buildings or other property may be expropriated except for public purposes. In all cases of expropriation full compensation, as prescribed by law, shall be paid.

Art. 5. The official language of the State of Israel is Hebrew. Adequate facilities shall be given to Arabic-speaking citizens for the use of their language, either orally or in writing, in the legislature, before the courts and before the executive and administrative authorities.

Art. 6. (1) The following persons shall be citizens of Israel and shall enjoy the rights and privileges and be subject to the obligations of such citizenship:

- (a) All Jews who were resident in the area of the State at the time of the enactment of this Constitution.
- (b) All Jews over the age of 18 years resident in that part of Palestine which is not included in the State of Israel who, within one year, opt for citizenship of Israel. The exercise of this right of option shall include the wife and children under 18 years of age of the person so opting.
- (c) All residents of Israel other than Jews who were citizens of Palestine at the time of the termination of the Mandate, provided that any such person being over the age of 18 may, within one year, elect not to accept the citizenship of Israel. The exercise of this right of option includes the wife and children under 18 years of age of the persons so opting.

(2) The conditions governing the future acquisition and termination of citizenship in the State of Israel shall be determined by a National Law.

Art. 7. The flag of the State of Israel is a white banner with two horizontal blue stripes and the Shield of David in the centre.

Art. 8. All natural resources within the jurisdiction of the State of Israel shall belong to the State subject to any rights therein vested in any person or body, and shall be controlled and administered by the Government of Israel in accordance with such regulations and provisions as shall from time to time be approved by legislation.

Art. 9. The State shall enact legislation to ensure the proper conservation and economic utilization of the soil and water for the benefit of the people.

Art. 10. The antiquities in Israel, being a precious heritage of the past, shall be considered as a trust to be conserved by the State for future generations, and the State shall enact legislation to this end.

Art. 11. The State of Israel shall seek to settle all international disputes of whatever nature or origin in which it may be involved by pacific means only. The generally recognized rules of international law shall form part of the municipal law of Israel.

II Fundamental Rights

Art. 12. The State shall ensure the sanctity of human life and uphold the dignity of man. There shall be no penalty of death, nor shall anyone be subjected to torture, flogging or humiliating punishment. The application of moral pressure or physical violence in the course of police interrogations is prohibited; evidence obtained by such methods shall not be admissible in Court.

Art. 13. (1) The liberty of the person is inviolable. No one shall be detained except pursuant to an order or judgment of a Court of Law, or when apprehended in flagrante delicto, or for the purpose of bringing him before a Court on a charge of having committed a crime.

(2) Preventive detention by executive order shall be unlawful except when authorized by specific legislation in time of war or national emergency and subject to continuous parliamentary control.

(3) Any person arrested shall be informed in writing within twenty-four hours by what authority and on what grounds he is being detained, and shall be brought up for trial not later than two days from the date of his arrest. Upon complaint being lodged by or on behalf of any person to the High Court or any Judge thereof, that any such person is being unlawfully detained, the High Court or the Judge to whom such complaint is made shall require the officer in whose custody such person is detained, to produce him without delay and certify in writing the grounds of his detention. If satisfied that the detention is not in accordance with the law, the Judge shall order the immediate release of the detainee.

(4) No person under arrest shall be held incommunicado.

(5) No person shall be deprived of his liberty on account of a debt or other contractual obligation except for fraud.

(6) No one shall be tried save by due process of law. Extraordinary courts shall not be established. No person other than members of the Armed Forces of the State on active service, shall, at any time, be subjected to the jurisdiction of military tribunals.

(7) No one shall be convicted of any infringement of the law which did not constitute an offense when it was committed, nor shall any amendment of the law increasing the penalty for any offense or altering the rules of evidence to the detriment of the accused, have retroactive effect.

(8) Anyone wrongfully arrested, convicted or punished shall have an enforceable claim for compensation against the State.

Art. 14. The dwelling of every person is inviolable and shall not be entered or searched except in accordance with the law and in the manner therein prescribed. Private correspondence as well as telegraphic and telephonic communications shall not be intercepted. Any temporary suspension of these guarantees in time of war or national emergency shall require specific legislative authorization and shall be subject to parliamentary control.

Art. 15. (1) Freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, shall be insured to all.

(2) Existing rights in respect of Holy Places and religious buildings or sites shall not be denied or impaired. The liberty of access, visit and transit to Holy Places shall be guaranteed, in conformity with existing rights, to all without distinction, subject to the requirements of national security, public order and decorum.

(3) No taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from taxation on the date of the establishment of the State. No change in the incidence of such taxation shall be made which would either discriminate between the owners or occupiers of Holy Places, religious buildings or sites, or would place such owners or occupiers in a position less favorable in relation to the general incidence of taxation than existed prior to the establishment of the State.

(4) The Sabbath and the Jewish Holy Days shall be days of rest and spiritual elevation and shall be recognized as such in the laws of the country. The Holy Days of other religious denominations shall equally be recognized as legal days of rest for the members of such denominations.

Art. 16. Freedom of speech and the free expression of opinion in writing or in any other form, are guaranteed. This constitutional guarantee shall not extend to utterances or publications which are libellous, slanderous or obscene, or which are designed to stir up racial or religious hatred, or to incite to violence or crime, or which advocate the suppression of human rights, or of the democratic system of government, or which reveal secrets of national defence. The institution of a preventive censorship shall be unlawful save in time of war or national emergency and shall require specific legislative authorization and be subject to continuous parliamentary control and review.

Art. 17. All citizens of the State of Israel shall have the right to assemble peaceably without arms and to form associations, subject to such regulative provisions as may be enacted from time to time by the Chamber of Deputies. Such enactments shall contain no discrimination on grounds of race, religion, language or political belief.

This constitutional guarantee shall not extend to assemblies or associations aiming at the suppression of human rights or of the democratic form of government.

Art. 18. Any officer of the State of Israel who, contrary to the provisions of this Constitution, knowingly violates the rights and liberties of any person shall be liable to proceedings under the civil and criminal law.

Art. 19. Every citizen of the State of Israel has the right, either individually or in association with others, to petition the President, the Government, the Chamber of Deputies, or any other public authority for the redress of grievances or for the enactment of legislation.

Art. 20. No one may be extradited to any foreign country where he is liable to be deprived of such fundamental personal and political rights as are guaranteed by this Constitution. The Government of Israel may in its absolute discretion refuse to deliver up any of its subjects to a foreign government for prosecution or punishment.

Art. 21. The economic order of the State of Israel shall be based on the principles of social justice. Every citizen shall have an equitable

share in the national income and a right to social security. The State shall encourage and aid every form of cooperative effort.

Art. 22. Every one has the right to work. The State of Israel shall endeavor to ensure to all its citizens without distinction a decent standard of living and a fair and equal opportunity of earning a livelihood. Legislation shall be enacted making provision for reasonable wages, working hours and conditions of work and for the provision of state insurance against the risks of accident, sickness, disablement, unemployment, old age and other causes of undeserved want. Special protective measures shall be enacted for the benefit of working mothers and children, and of widows and orphans.

Art. 23. The right of workers to form trade union associations to enter into collective bargaining contracts and to strike in defense of their economic rights and interests is guaranteed by the Constitution. Any provision embodied in a contract of employment which involves renunciation or diminution of these rights shall be null and void.

Art. 24. Care for the health of the population is a primary duty of the State. Legislation shall be enacted providing for the establishment of a national health service, protection of motherhood and child life, the promotion of public and personal hygiene, and the grant of state aid towards the construction of hygienic workers' dwellings.

Art. 25. (1) The State shall provide adequate facilities for primary and secondary education to be given to Jews and Arabs in their own language and cultural traditions.

(2) The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the State may impose, shall not be denied or impaired.

(3) Foreign educational establishments shall be allowed to continue their activity on the basis of their existing rights.

III The Legislature

Art. 26. The legislative power in the State of Israel shall be vested in the Chamber of Deputies.

Art. 27. All citizens of the State who have reached the age of twenty-one and are not subject to any legal disability or incapacity under the electoral law shall be entitled to vote in the elections to the Chamber.

Art. 28. All citizens of the State who have reached the age of twenty-five and are not subject to any legal disability or incapacity under the electoral law, shall be eligible to the Chamber. Judges, civil servants, members of the Armed Forces of the State of Israel serving with the colours, and persons who are also citizens of a foreign state shall not be eligible.

Art. 29. The Chamber of Deputies shall be elected by equal, direct and universal suffrage and by secret ballot on the basis of proportional representation. The mode of election shall be determined by an electoral law. The country shall be divided into a number of electoral districts, each 10,000 of the population approximately to be represented by one deputy. The electoral districts shall be revised once in three years, having regard to intervening changes in the numbers and distribution of the population. Vacancies caused by the death, resignation, or disqualification of any deputy shall be filled in accordance with the provisions of the electoral law.

Art. 30. Elections shall be held within two months from the expiration of the term of the dissolution of the preceding Chamber. They shall be held on the same date throughout the country.

Art. 31. The Chamber shall meet within one month of its election. It shall hold two sessions every year, beginning in the first week of Cheshvan and Iyar, respectively. The sessions shall be convened by the Chairman on the day fixed by the Chamber upon its adjournment. At the request of one-third of the deputies, an extraordinary session shall be called.

Art. 32. On taking their seats, deputies shall make the following solemn declaration: "I pledge myself to be faithful to the State of Israel and to uphold its Constitution and its laws."

Art. 33. The Chamber shall be elected for a period of four years, but it may extend its term in case of war or emergency, but for not more than one additional term.

Art. 34. The President of the Republic may dissolve the Chamber of Deputies prior to the expiration of its term if the Executive Council in office has resigned and no alternative Council can be formed commanding the support of a stable majority in the Chamber.

Art. 35. No legal action shall be taken against any deputy in respect of any statements made or votes taken in the Chamber or in respect of any opinions expressed by him outside the Chamber in his official capacity. No deputy may be required, even after having ceased to be a deputy, to give evidence in any court of law in regard to matters confided to him in that capacity. This provision shall not apply to any investigation conducted by a committee of enquiry appointed by the Chamber.

Art. 36. No criminal proceedings may be taken against any deputy except with the consent of the Chamber. No deputy may be arrested except if apprehended in flagrante delicto. If any deputy is so arrested, the chairman shall be immediately informed and shall bring the matter to the notice of the Chamber. Unless the Chamber within a fortnight approves of the detention and authorizes the institution of legal proceedings against the deputy, he shall be released.

Art. 37. Deputies shall receive a remuneration to be fixed by the Chamber.

Art. 38. Official reports of proceedings in the Chamber and its Committees, as well as true reports of such proceedings wherever published, shall be privileged.

Art. 39. The Chamber shall adopt Standing Orders for regulating its procedure, maintaining internal discipline and protecting its members from any molestation, interference or attempt at corruption. It shall elect a Chairman and Vice Chairmen and fix their powers and remuneration.

Art. 40. The proceedings of the Chamber shall be held in public. Upon a motion supported by two-thirds of the deputies present, the public may be excluded.

Art. 41. Save as otherwise prescribed in this Constitution or in the Standing Orders, decisions shall be by a majority of those present. In case of any equality of votes the presiding officer shall exercise a casting vote.

Art. 42. The initiative in introducing legislation shall rest with the Executive Council. Deputies may propose legislative measures, but such proposals shall be referred to a Select Committee of the Chamber.

They shall be introduced by the Executive Council if recommended by a majority of the Select Committee and in the form recommended by that Committee.

Art. 43. All revenues of the State, from whatever source arising, shall form one Consolidated Revenue Fund and shall be appropriated by the Chamber of Deputies for the purposes of the State in the manner and subject to the charges and liabilities imposed by this Constitution.

Art. 44. The Chamber shall consider the estimates of income and expenditure for the current financial year submitted to it by the Executive Council, and shall enact the Finance Act prior to the end of the financial year. No resolution for the appropriation of funds or for the increase of any grant or charge may be moved except by a member of the Executive Council.

Art. 45. After a Bill has been passed by the Chamber, two copies of it shall be transmitted by the Chairman to the President of the Republic for his signature. One copy shall be deposited in the Record Office of the Chamber and the other shall be transmitted to the Registrar of the High Court to be enrolled for record in his office. It shall come into force upon its publication in the Official Gazette.

Art. 46. The recruiting and maintenance of the Armed Forces shall be subject to the control of the Chamber of Deputies.

Art. 47. Treaties and other agreements with foreign countries shall not be binding on the State unless approved by the Chamber of Deputies. By such approval these treaties and agreements shall become part of the municipal law of Israel. All such treaties and agreements shall be published in the Official Gazette.

IV The Executive Power

Art. 48. The executive power in the State of Israel shall be vested in the President of the Republic and in the Executive Council.

(1) The President of the Republic

Art. 49. Any citizen of Israel, who is eligible to the Chamber of Deputies and has reached the age of 35, may be elected to the office of President.

Art. 50. The President of the Republic shall be elected by the Chamber of Deputies by secret ballot. If, in two successive ballots, no candidate receives an absolute majority of votes, the candidate for whom, in the third ballot, a relative majority of votes is cast, shall be deemed to have been elected.

Art. 51. The term of office of the President shall be five years. He may be re-elected on the expiry of his term or at any subsequent election, but only for one additional term of office.

Art. 52. The election of the President shall take place not later than one month prior to the expiration of the term of the President in office. If the latter dies, resigns, is removed from office or becomes permanently incapacitated, such incapacity being established by a decision of the Supreme Court, the election of a new President shall take place within one month therefrom.

Art. 53. If the office of the President becomes vacant as a result of the death, resignation, removal, or permanent incapacity of the holder, the Chairman of the Chamber of Deputies shall exercise the functions of the President until the election of a new President.

Art. 54. The President, upon entering his office, shall make the following declaration in the presence of members of the Executive Council, the Chamber of Deputies and the Judges of the Supreme Court and the High Court: "I solemnly promise that I will maintain the Constitution and the laws of Israel, that I will dedicate myself to the service and welfare of the People of Israel and that I will act justly and rightly to all citizens of Israel."

Art. 55. Every official act of the President shall be countersigned by the Prime Minister or a member of the Executive Council who shall thereby assume responsibility for it.

Art. 56. The President shall, after consultation with the leaders of the parliamentary parties, appoint the Prime Minister and upon his advice, the other members of the Executive Council. The President shall appoint the ambassadors and ministers of the State of Israel. The President shall appoint the Commander in Chief of the Armed Forces of Israel and issue commissions to the officers of these Forces.

Art. 57. The President shall receive the diplomatic envoys accredited to the State of Israel and shall issue exequaturs to foreign consuls.

Art. 58. The President shall promulgate the laws enacted by the Chamber within ten days from the date of such enactment. If the law was enacted as an urgent measure it shall be promulgated within three days.

Art. 59. The President shall exercise the prerogative of mercy.

Art. 60. The President shall, upon the advice of the Executive Council and with the assent of the Chamber of Deputies, conclude treaties with foreign states.

Art. 61. The President shall be removed from office on impeachment by two-thirds of the Chamber of Deputies and on conviction by the Supreme Court of high treason, bribery or culpable violation of the Constitution.

(2) The Executive Council

Art. 62. The Executive Council shall consist of the Prime Minister, the heads of the Departments of State and such Ministers without Portfolio as may from time to time be appointed. The total number of Ministers shall not exceed fifteen. All Ministers shall be members of the Chamber of Deputies and shall be appointed in the manner prescribed in Article 56.

Art. 63. The Prime Minister shall preside over the meetings of the Executive Council. He shall be responsible for the coordination of activities of the Executive Council and for the execution by the Department of State of the policies adopted by the Executive Council. He shall keep the President of the Republic informed on all major questions of domestic and foreign policy.

Art. 64. The Executive Council shall be collectively responsible to the Chamber of Deputies. It shall resign if it ceases to retain the support of a majority in the Chamber of Deputies, but shall continue in office until its successors have been appointed. The resignation of the Prime Minister shall entail that of the Executive Council as a whole. Individual Ministers may resign from office by placing their resignation in the hands of the Prime Minister for submission to the President of the Republic.

Art. 65. No Minister may be a member of the Board of Directors of any Joint Stock or Limited Liability Company carrying on business for profit.

Art. 66. The organization of the Departments of State, the designation of Ministers and their remuneration shall be regulated by law.

Art. 67. The organization of and admission to the Civil Service shall be regulated by law. After the enactment of this Constitution, all appointments to the Civil Service shall be by examination to be conducted by a Civil Service Commission. In exceptional cases the Civil Service Commission may authorize the appointment of senior officers without examination.

Art. 68. The Executive Council and any of its members shall have power to make orders and regulations within the framework of existing laws. Such orders and regulations shall be tabled in the Chamber of Deputies and shall become inoperative if a motion to that effect is adopted by the Chamber within two weeks therefrom.

(3) Comptroller and Auditor General

Art. 69. There shall be a Comptroller and Auditor General to control, on behalf of the State, all payments and to audit all accounts of monies administered by or under the authority of the Chamber of Deputies. He shall not be a member of the Chamber of Deputies nor hold any other office or position of emolument. The manner of his appointment and the length and conditions of his tenure of office shall be fixed by law.

V *The Judicial Power*

Art. 70. The judicial power shall be vested in and exercised by the Courts of Law established under this Constitution. They shall comprise:

- (a) Magistrates' Courts;
- (b) District Courts;
- (c) A High Court with original and appellate jurisdiction in civil and criminal matters, and with exclusive original jurisdiction in all questions relating to the validity of any law having regard to the terms of the Constitution;
- (d) A court of final appeal to be called the Supreme Court;
- (e) Religious courts of the Jewish, Moslem and Christian communities exercising jurisdiction in matters of personal status and of religious foundations and endowments.

Art. 71. The organization and jurisdiction, pensions and age of retirement of the judges, and all matters of procedure shall be regulated by law.

Art. 72. All judges, other than the members of the Religious Courts, shall be appointed by the President of the Republic on the advice of the Minister of Justice who, in tendering such advice, shall be guided by the recommendations of a Selection Board consisting of a member of the Supreme Court, a High Court judge, two senior officers of the Department of Justice, three deputies chosen by the Chamber and three representatives of the Bar Association. The Selection Board shall be reconstituted annually. The judges of the Religious Courts shall be appointed by the President of the Republic acting on the advice of the Minister for Religious Affairs who, in tendering such advice, shall be guided by the recommendations of the Supreme Religious Council of the community concerned.

Art. 73. No judge of the Civil Courts shall be removed from office except for stated misbehaviour or incapacity upon a resolution supported by two-thirds of the members of the Chamber of Deputies. No judge of the Religious Courts shall be removed from office except for stated misbehaviour or incapacity upon a motion of the Supreme Religious Council of the community concerned and upon a resolution supported by two-thirds of the members of the Chamber of Deputies. The removal shall be effected by an order of the President of the Republic.

Art. 74. Where any action of personal status involves persons of different religious communities, the President of the Supreme Court shall decide which court shall exercise jurisdiction. In deciding such issue, he shall invite the assistance of assessors from the Religious Courts of the communities concerned. Whenever the question arises as to whether or not a case is one of personal status within the exclusive jurisdiction of a religious court, the matter shall be referred to a special tribunal, the constitution of which shall be prescribed by law.

VI Amendment of the Constitution

Art. 75. The Chamber of Deputies shall have power to amend the Constitution, but every such amendment shall require the assent of two-thirds of the total membership of the Chamber and shall not come into force unless passed by that majority in two successive sessions of the Chamber, and unless not less than six months have elapsed between the two successive enactments.

VII Constitution and Legislation

Art. 76. No law shall be enacted which is in any respect repugnant to any of the provisions of this Constitution. If the Courts pronounce any law or any provision thereof to be repugnant to the Constitution, such law or provision shall, to the extent of such repugnancy, be thenceforth absolutely void and inoperative.

VIII The Law

Art. 77. The laws in force in the State of Israel at the time of the enactment of this Constitution shall continue in force to the extent to which they are not inconsistent with the terms of this Constitution until the same or any of them shall have been repealed or amended by the Chamber of Deputies or under its authority. Future legislation in Israel shall be guided by the basic principles of Jewish Law. Wherever the existing law does not provide adequate guidance, the Courts-of-Law shall have recourse to these basic principles.

IX Promulgation

Art. 78. This Constitution shall come into force on the day of its publication in the Official Gazette.

II

**DATA REGARDING THE BALTIC STATES—
ESTONIA, LATVIA AND LITHUANIA**

ESTONIA

INTERNATIONAL STATUS

At the time of our going to press Estonia is not in fact exercising functions of an independent sovereign nation. It is not a member of the United Nations, and it is not included in the list of non-member nations to which the United Nations distributes information.

Estonia was occupied by the USSR and proclaimed a Soviet Republic in August, 1940. This action has not been recognized by the United States of America. The following is from a letter to the editor from the Department of State, dated January 27, 1947:

"1. The United States does not recognize the incorporation of Lithuania, Latvia, and Estonia into the Soviet Union and continues to recognize the representatives of the Baltic States accredited to this Government.

"2. The United States diplomatic and consular establishments in Lithuania, Latvia, and Estonia were closed as of September 5, 1940.

"3. Elections were held in Lithuania, Latvia, and Estonia in July, 1940, under Soviet auspices. The parliaments elected as a result of these elections later voted that their countries should become Soviet republics."

Estonia was a member of the League of Nations and signed the Statute of the Permanent Court of International Justice October 18, 1921, and deposited its ratification on May 2, 1923. It adhered to the optional clause (Article 36) relating to compulsory jurisdiction, on certain conditions.

The Estonians are of the Finno-Ugric family. Invaded first by the Danes, in 1219, Estonia became a domain of the Teutonic Order in the middle of the 14th century. For a short period it was divided under Polish and Swedish rules, and from 1625 to 1710 united under the Swedish sceptre. The Swedish-Russian peace treaty of 1721 ceded Estonia to Russia. After the Russian Revolution of March 1917, the Russian Provisional Government of Prince Lvov passed a "special law" granting autonomy to the Estonian people. The advent of the Bolshevik régime in Russia moved the Estonian National Council to proclaim, in November 1917, the political independence of Estonia. This was recognized *de facto* by France and Great Britain early in 1918. There followed the German occupation and, from November 1918 until February 1920, the fighting against the invading Russian Red Army and the

remnants of the German occupation forces. On February 2, 1920, the Tartu (Dorpat) Peace Treaty was signed. By virtue of this treaty, Russia surrendered all her claims to sovereignty over the territory and population of Estonia. Recognized *de jure* by the great European Powers, Estonia was admitted to the League of Nations in September, 1921. The United States accorded its recognition *de jure* to the Estonian Republic on July 27, 1922.

Estonia was again occupied by the USSR in 1940, occupied by Germany in 1941–1944, and reoccupied by the USSR in 1944.

AREA, POPULATION

Estonia has an area of 18,353 square miles and an estimated population of 1,134,000.

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LATVIA

INTERNATIONAL STATUS

At the time of our going to press Latvia is not in fact exercising functions of an independent sovereign nation. It is not a member of the United Nations, and it is not included in the list of non-member nations to which the United Nations distributes information.

Latvia was occupied by the USSR and proclaimed a Soviet Republic in August, 1940. This action was not recognized by the United States. The following is from a letter to the editor from the Department of State dated January 27, 1947:

"1. The United States does not recognize the incorporation of Lithuania, Latvia, and Estonia into the Soviet Union and continues to recognize the representatives of the Baltic States accredited to this Government.

"2. The United States Diplomatic and Consular establishments in Lithuania, Latvia, and Estonia were closed as of September 5, 1940.

"3. Elections were held in Lithuania, Latvia, and Estonia in July, 1940, under Soviet auspices. The parliaments elected as a result of these elections later voted that their countries should become Soviet republics."

The Latvian Minister in Washington has sent to the editor photostatic copies of certificates by Secretary of State Marshall, under date of May 28, 1947, that Dr. Alfred Bilmanis is duly accredited to the United States as Envoy Extraordinary and Minister Plenipotentiary and Consul General of Latvia; that the legal existence of the Treaty of Friendship, Commerce and Consular Rights, as well as of all other treaties between the United States and the Republic of Latvia, has not been affected by any of the acts of the Soviet régime which assumed power in Latvia in 1940, or of any subsequent régime in that country; that the incorporation of Latvia by the Union of Soviet Socialist Republics is not recognized by the Government of the United States; and that the legality of the so-called "nationalization" laws and decrees, or of any of the acts of the Soviet régime which assumed power in Latvia in 1940, or of any subsequent régime in that country, has not been recognized by the Government of the United States.

Latvia was a member of the League of Nations and signed the Paris Pact of 1928. It signed and ratified the Statute of the Permanent Court

of International Justice and also accepted the optional clause (Article 36) relating to compulsory jurisdiction.

It was at one time dominated by Poland, then by Sweden, and in 1795 annexed by Peter the Great to Russia. There were attempted uprisings during the nineteenth century and the idea of an independent Latvia grew strong, resulting in reforms and the promise of autonomy to the Baltic provinces in 1905. That grant, however, was not put into effect. During World War I, Latvia fought strongly against the Germans, but was turned over to Germany by the treaty of Brest-Litovsk. After the fall of Germany it became independent *de facto*, and in 1920 was cleared of all foreign troops and recognized as independent by the USSR. During World War II, Latvia was invaded and occupied for three years by the Germans.

AREA, POPULATION

Latvia has an area of 25,402 square miles and a population of about 1,950,000.

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LITHUANIA

INTERNATIONAL STATUS

At the time of our going to press Lithuania is not in fact exercising functions of an independent sovereign nation. It is not a member of the United Nations, and is not included in the list of non-member nations to which the United Nations distributes information.

Lithuania was occupied by the USSR and proclaimed a Soviet Republic in August, 1940. This action was not recognized by the United States. The following is from a letter to the editor from the Department of State dated January 27, 1947:

"1. The United States does not recognize the incorporation of Lithuania, Latvia, and Estonia into the Soviet Union and continues to recognize the representatives of the Baltic States accredited to this Government.

"2. The United States Diplomatic and Consular establishments in Lithuania, Latvia, and Estonia were closed as of September 5, 1940.

"3. Elections were held in Lithuania, Latvia, and Estonia in July, 1940, under Soviet auspices. The parliaments elected as a result of these elections later voted that their countries should become Soviet republics."

Lithuania was a member of the League of Nations and signed the Paris Pact of 1928. It signed and ratified the Statute of the Permanent Court of International Justice and also accepted the optional clause relating to compulsory jurisdiction (Article 36).

As a result of attacks from all sides, the Lithuanian chiefs formed a unified national state as early as 1248. During the late thirteenth and early fourteenth centuries, Lithuania became one of the most powerful states in Europe, with territory extending as far east as the Dnieper and as far south as Odessa on the Black Sea. However, in 1413 a "personal union" between Lithuania and Poland was recognized and, in 1569, a single Polish-Lithuanian state was organized with one ruler and a single legislative body, although Lithuania retained complete autonomy. This lasted until the partitions of Poland, and Lithuania was annexed to Russia in 1795. Lithuanian rights and privileges were suppressed resulting in revolts in 1812, 1831, and 1863 and strong agitation for autonomy from 1880 onward.

Lithuania was a battleground in World War I and suffered from both the Russian and the German occupation. In 1918 it declared its inde-

pendence. A state of war existed between it and Poland from 1920 to 1927, as a result of the latter's seizure of Vilna, and diplomatic relations between the two countries were interrupted until 1938. Memel was also a controversial spot and in 1923 was internationalized and administered by representatives of Lithuania and the League of Nations.

During World War II, Lithuania was invaded and occupied for three years by Germany.

AREA, POPULATION

Lithuania has an area of about 24,000 square miles and an estimated population of about 3,000,000.

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III

DATA REGARDING INDONESIA

1

1

INDONESIA

INTERNATIONAL STATUS

At the time of our going to press Indonesia, although recognized *de facto* for certain purposes by several nations, including the United States of America and the Netherlands, is not exercising the full functions of a sovereign nation.

The "Republic of Indonesia" proclaimed its independence in August, 1945. Its government was recognized by the Netherlands Government, in the Linggadjati Agreement of March 25, 1947, as exercising *de facto* authority over Java, Madura and Sumatra. *De facto* recognition by the United States and several other states was accorded without prejudice to the general sovereignty of the Netherlands. Differences between the Netherlands and the Indonesian Government subsequently led to the taking of police action by the Netherlands Government and to the establishment of a Committee of Good Offices by the Security Council of the United Nations. A truce was accepted by both parties under the Renville Agreement of January 17, 1948. The parties accepted at the same time a number of principles on which their political discussions would be based. One of the principles was "that a constitutional convention be chosen according to democratic procedure to draft a constitution for the United States of Indonesia", which would include the Republic of Indonesia and at least two other states to be formed in Borneo and the eastern islands and which would be linked to the Netherlands in a Netherlands-Indonesian Union.

On May 7, 1949 the Netherlands representative in the Security Council of the United Nations advised the President of the Security Council that the "delegations of the Netherlands and of the Republic of Indonesia met in Batavia, under the auspices and in the presence of the United Nations Commission for Indonesia" and issued formal statements endorsed by their respective governments. The statements pledged efforts toward the cessation of guerilla warfare and the restoration of peace and the maintenance of law and order.

The Chairman of the delegation from the "Republic Indonesia" stated that he favored "participation in a round table conference at The Hague with a view to accelerate unconditional transfer of real and complete sovereignty to the United States of Indonesia".

The Chairman of the Netherlands delegation stated that the Netherlands delegation "agrees to the return of the Republican Government to

Djokjakarta" and that "the Netherlands Government favors the existence of the Republic as a state to take its place in the United States of Indonesia".¹

AREA, POPULATION

The estimated area of Indonesia is 218,365 square miles. Its estimated population is 55,710,000.

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¹U.N. Document 1319; see Bulletin of the Dept. of State of the U.S.A. May 22, 1949, Vol. XX, No. 516.

IV
NOTES ON THE NATIONAL
COATS-OF-ARMS

NOTES ON THE NATIONAL COATS-OF-ARMS

By JOSEPH P. SIMS

Afghanistan

A mosque within a wreath.

Albania

The black double-headed eagle of Scanderbeg (a great 15th Century Albanian patriot). Scanderbeg chose this emblem on account of the old tradition that Albanians are descendants of an eagle. Above the eagle's head is a gold five-pointed star.

Andorra

The coat-of-arms bears quartered, first, the Episcopal Miter and the Crozier of Urgel, second and third, the red and yellow pales of Aragon and fourth, two belled cows.

Argentina

The badge consists of an oval shield divided in halves. The upper part is light blue and the lower white. Over all, are two hands grasping a staff on which is a red cap of liberty. Above is the golden sun and the shield is surrounded by a laurel wreath which partly conceals the sun. The liberty cap is the symbol of freedom and the clasped hands represent fraternity and union. The laurel wreath is the symbol of honor.

Australia

The shield is divided into six (6) parts. The upper part shows:

1. *New South Wales*: St. George's Cross on white with the lion of the British Empire on the intersection and four golden stars of the Southern Cross on the arms.
2. *Victoria*: On a field of blue the constellation of the Southern Cross with the royal crown of the Empire above.
3. *Queensland*: A blue Maltese Cross coming down from the Order of St. John bearing the Crown of the Empire on the intersection.

The lower part shows:

4. *South Australia*: A piping crow on a yellow field.
5. *Western Australia*: The black Swan on a gold field.
6. *Tasmania*: A red Lion passant on a white field.

Austria

A black Eagle, crowned. The orb and sceptre of the old arms have been replaced by the hammer and sickle, and chains hang from the eagle's legs.

Belgium

A black shield charged with the golden lion of Brabant surmounted by a crown. Where the complete arms are shown the shield is supported by lions holding flags with the Belgium colors of red, yellow and black. Supporting the crown is a gold helmet and the whole device is placed on a mantling. Above the device are nine small flags for the Provinces of Belgium.

Bhutan

The design on the curious flag is the "Jelvd",—a sort of flaming sword.

Bolivia

The badge is an oval cartouche encircled with a light blue border bearing the name "Bolivia" in crimson, with nine golden stars below for the nine departments of the country. In the center is a landscape with a sun shining over the mountain of Potosi, a house, a tree, a corn sheaf and a llama representing the riches of the country. Behind are two crossed cannon and four rifles with fixed bayonets, an axe and a cap of liberty. The national flags, red at top, yellow and green, are on each side and above is a condor alighting on a wreath.

Brazil

The badge has in the center a blue circle bearing the Southern Cross while around the edge are twenty-one five-pointed stars for the States of the Federation. The circle forms the center of a five-pointed star in green and yellow with red edging, all of which is encircled by a wreath. The hilt of a sword shows in base and the whole design appears upon a star of twenty-one golden rays.

Bulgaria

Within a wreath topped by a five-pointed star, a gold lion rampant on a blue field.

Burma

At the center, within the circular border, inscribed with the motto "The pursuit of unity is happiness and prosperity" is the map of Burma. Three heraldic lions of classical Burmese design are on either side facing outward and above is a lion full-face. Three is the auspicious number. The traditional attributes of the lion, as handed down from ancient wisdom, are bravery, strength, cleanliness and equal exertion of its whole might against enemies big and small. The legend of the State Seal "The Union of the Republic of Burma" is inscribed in scroll work at the base.

Byelorussian—S. S. R.

A design very similar to that of the U. S. S. R., except that the hammer and sickle are superimposed on the sun's rays instead of being on a globe.

Canada

The arms of Great Britain; within the base, the maple leaves of Canada. The Union Flag and the golden lilies of France are held by the supporters, a lion and a unicorn. The lion in the crest holds in his paw a red maple leaf and the motto is "From Sea to Sea".

Ceylon

A conventionalized lion holding a sword on a flag.

Chile

The arms are a shield, half blue, half red,—the blue being on top with over all a white star. Above are three feathers of red, white and blue, representing the Rhea, the representative of the flightless birds in South America. The dexter supporter is a "Huemul" only found in the mountains of Chile, and the other supporter is a Condor.

China

A twelve-rayed star in white. In the flag this star appears on a blue canton.

Colombia

The shield has a white fess charged with a red cap of liberty. Above the fess is a pomegranate and two cornucopias in yellow on blue. The base shows a landscape with two oceans and a lake between. On each side are two tri-colors while the crest is a Condor holding a green laurel in its beak.

Costa Rica

On the shield are three mountains representing the volcanoes of Turrialba, Irazu and Poas between the two seas. Above are five white five-pointed stars.

Cuba

The shield is halved vertically. On the dexter two white diagonal stripes on a blue ground, on the other a landscape with a royal palm and mountains; on a chief the sun rises over the sea between two promontories symbolical of Florida and Yucatan. A golden key signifies that Cuba is the key of the Gulf of Mexico. Behind the shield is a bunch of Lictor's rods topped by a Phrygian cap. The shield is surrounded by a wreath of oak and laurel.

Czechoslovakia

The white lion of Bohemia charged with a shield bearing the cross of Slovakia.

Denmark

On the arms are shown the Dannebrog or white cross, dating to the 13th Century. Denmark is represented by three blue lions crowned on a golden field powdered with red hearts; Schleswig with two blue lions on a golden field; Sweden by three golden crowns on a blue field; a silver polar bear represents Greenland and the Faroe Islands are represented by a silver goat. The supporters are two savage men wearing green wreaths and holding clubs.

Dominican Republic

The arms consist of a shield of blue and red quarterings and the white cross of the flag over all. Thereon two pairs of crossed flags supporting a cross and an open book. The shield is encircled with a green wreath with lettering above and below.

Ecuador

The oval shield contains a landscape with the snow-capped mountain of Chimborazo rising out of the sea, a steamer and the sun with four signs of the Zodiac in the sky. Surmounting the design is a Condor.

Egypt

The shield bears a decrescent (a crescent with the horns pointing upwards) below three stars on a pavilion surmounted by the Royal Crown.

El Salvador

A triangular shield containing the five volcanic mountains of the Central American isthmus. In the center a pole with a cap of liberty on it and in the background the sun's rays behind the inscription "15 de Septiembre de 1821". Behind the shield are the national flags in blue and white with a wreath below. Surrounding the entire design is inscribed "Republica de el Salvador en la America Central".

Ethiopia

On a mantling appear two female winged figures, one holding a sword and scales, the other a sword and a wreath. The lion in the foreground is the Lion of Judah and the star is the Emperor's Star. The little figures on the crown at the top are St. George and the dragon,—St. George being the patron saint of Ethiopia. The motto at the bottom means: "Conquering Lion of the Tribe of Judah".

Finland

The shield is red with a yellow border, bearing nine white roses and over all a lion rampant in yellow. The lion's right fore-leg is encased in armor and holds a sword and it stands on another sword.

France

A circle in blue, white and red with the initials R F overall.

Germany

The old German black eagle shorn of its former crown, orb and sceptre forms the present design.

Greece

The shield is a white cross on a blue field. Surmounting this is a royal crown bearing a globe and cross. The supporters are two figures of Hercules. Surrounding the shield is a ribbon to which is suspended the order of the Redeemer and below is inscribed the motto "My Strength is my People's Love".

Guatemala

The badge shows a scroll with the inscription "Libertad 15 de Septiembre de 1821" placed in front of two crossed swords and two crossed rifles with bayonets fixed. A quetzal of bright green and a vivid red breast is perched on the rifles, and the design is surrounded by a laurel wreath.

Haiti

The design shows a palm tree in the center, in front of which is placed a drum. Red and blue flags and cannon are on either side.

Honduras

In the center of the design is a triangle—the symbol of equality and justice. Above is a quiver of arrows, flanked by horns of plenty; at the base is a landscape showing oaks and pines with tools, wedge, hammer, etc.

Hungary

The shield is divided in half, the dexter being red and white, the sinister red with a white cross on a green mount.

Iceland

The arms are a red cross imposed on a white cross on a field of blue. On the dexter side is a bull, on the sinister a bearded man with a staff and above the shield are an eagle and a dragon.

India

The design shows the Sarnath Lions.

Iran

A lion standing on a ribbon with a sword in his paw, with the sun behind, and surmounted by a crown.

Iraq

The badge, in a circular shield, shows a clump of trees in a desert. The supporters are a lion and a horse, both rampant.

Ireland

The harp of Brian Boru.

Israel

On a shield, a seven branched candelabra with a floral design on either side.

Italy

A five-pointed star on a wheel surrounded by a wreath.

Japan

The "Mon", a conventionalized golden chrysanthemum of sixteen (16) rays.

Jordan

On a mantling surmounted by a crown,—a design with a bird, crossed flags, swords, etc.

Korea

The flag shows a red and white "Monad" in the center on a white field. The four corner designs are in black.

Lebanon

On a red shield, a white bend sinister bearing a green tree.

Liberia

On a shield a ship on the ocean with the sun on the horizon. In the foreground a tree, plough, etc. The flag of Liberia appears above the shield on either side.

Liechtenstein

On a quartered shield, the first quarter the arms of Silesia a black eagle on a golden field, the second quarter six stripes of red and gold with a green crown running across them diagonally for Khuenring, the third

quarter red and silver for Tropau, the fourth quarter gold with a black harpy eagle for East Frisia. At the point of the shield in blue is a golden hunting horn, and the small red and gold shield over all represents Liechtenstein.

Luxembourg

The shield shows a lion rampant, crowned, and the supporters are two lions rampant. The shield is surmounted by a crown.

Mexico

The badge is a harpy eagle holding a serpent in its beak and standing on a prickly pear cactus, with a wreath of oak and laurel below.

Monaco

The shield is covered with red and white lozenges, supported by two monks in brown habits brandishing swords. Below is the motto "Deo Juvante" (God Helping).

Mongol People's Republic

This is the secondary emblem of the Nation and is formed by conventionalizing letters from the Tibetan alphabet.

Nepal

On a shield a four-armed man rises out of the sea, holding a trident and a stag and with mountains in the background and foreground. The crest shows footprints, crossed swords, a star and a crescent.

Netherlands

The shield is surmounted by the Royal Crown and bears a golden lion holding a sword and a bundle of arrows on a silver field. The shield is covered with billets. The shield is sometimes shown without the supporters, but surrounded with the riband and badge of the Order of William.

New Zealand

Emblazoned down the center of the shield are three black ships against a silver background, symbolizing the national importance of sea trade; in the first quarter are four stars representing the constellation of the Southern Cross; in the second quarter, the ancient symbol of a fleece; in the third, a sheaf of wheat, denoting agriculture; and in the fourth, two mining hammers. Thus is symbolic reference made to the chief industries of New Zealand. For the crest there is a lion holding a flagstaff flying the Union Flag. Underneath the shield is a scroll with the word "Onward". The supporters on either side of the shield consist of a female

figure, Zealandia, with the ensign of New Zealand at her right; and the figure of a Maori chieftain holding his halbert.

Nicaragua

Nicaragua was discovered by Columbus in 1502 and remained under Spanish rule until 1821. The badge consists of a triangle bearing a landscape with five mountains rising out of the sea. A pole rises out of the middle mountain bearing a red cap of liberty.

Norway

A golden lion rampant, holding the battle axe of St. Olav, on a red field, surmounted by a crown.

Pakistan

A star and crescent.

Panama

The shield is divided into three parts,—the center showing the Isthmus with its two seas. The upper part is divided in half, one-half showing a sword and a gun on a silver field, the other a spade and a hoe on a red field. The lower part of the shield is also divided in two, one part showing a cornucopia on a blue field, the other a winged wheel on a field of silver. Surmounting the shield is an eagle with outstretched wings holding in its beak a ribbon with the words “Pro Mundi Beneficio” (for the benefit of the world) and the shield is flanked by the national flags in red, white and blue. The nine stars represent the provinces.

Paraguay

A large five-pointed yellow star surrounded by a laurel wreath, on a disc with a red, white and blue rim.

Peru

The shield is divided horizontally. The upper half divided vertically shows a Guanaco on a blue ground and a tree on a white ground. The lower half is red with a cornucopia and the shield is bordered with a yellow edge. A green wreath surmounts the shield and it is surrounded by another wreath of palm and laurel tied with a red and white ribbon. Some designs show the arms without the flanking flags.

The Philippines

Arms—Paleways of two pieces, azure and gules; a chief argent studded with three golden stars equi-distant from each other; in point of honor, ovoid argent over all the sun rayonnant with eight minor and lesser rays;

in sinister base gules, the Lion rampant of Spain; in dexter base azure, the American eagle displayed proper. Beneath, a scroll with the words "Republic of the Philippines" inscribed thereon.

Poland

The arms are a white eagle displayed on a red field.

Portugal

The arms of the Republic retain the five blue shields on a white ground of the Monarchy, symbolizing the great victory of Alfonso Henriquez in 1139 over the five Moorish princes at the battle of the Ourique. The red border was added by Alfonso III in 1252 after his marriage to the daughter of the King of Castile. The shield is framed in an armillary sphere.

Rumania

Mountains covered with forests, over which the sun rises. In the center is an oil derrick, and around the coat-of-arms there is a wreath made of spikes of wheat.

San Marino

The arms of what claims to be the oldest state in Europe consist of three green hills with white towers from the battlements of which float ostrich feathers on a blue field. The hills are Monte Guiato, Monte Cucco and Monte Gista. The shield is surrounded by a wreath of laurel and oak leaves and surmounted by a crown.

Saudi Arabia

A palm tree above crossed swords.

Spain

The shield is quartered. First and fourth quartered quarterly. The gold castles of Castile on a red field and the red lions of Leon on a white field; second and third quarter per pale the red pallets of Aragon on a gold field and the golden chains of Navarre on a red field. At the bottom between the lower two quarters appears the pomegranate of Granada. An eagle displayed is behind the shield and two Pillars of Hercules serve as supporters—one crowned with the crown of the Holy Roman Empire and the other with the crown of Castile.

Sweden

The shield is divided by a cross quarterly, first and fourth quarters, three golden crowns on a blue field; second and third quarters three golden

bends sinister. In the center is an inescutcheon and the shield is surmounted by a crown, with two crowned lions rampant as supporters.

Switzerland

A white cross on a red field, the cross being the simple white cross of the Crusaders. It was at Geneva in 1863 that an International Conference was held to consider how far the horrors of war could be mitigated by aid to the wounded and here that the Red Cross was founded, using as a symbol the arms of Switzerland reversed.

Syria

An eagle displayed, on its breast a shield bearing three stars.

Thailand

The "Garuda" in red. According to the Brahman religion, the Garuda was the bird upon which the god Vishnu rode.

Turkey

The shield is charged with a crescent and a star. The crescent, really a symbol of Constantinople, dates from the days of Philip of Macedon who while besieging Byzantine in 339 B.C. met with many repulses. He tried as a last resort to undermine the walls but the crescent moon shone so brightly that the attempt was discovered and the city saved. There are various explanations for the star, one being that it represents the Star of Bethlehem.

Ukrainian S.S.R.

On a shield appear a hammer and sickle and in back of them is a sunburst, and a wreath surrounds the design.

Union of South Africa

A quartered shield, the first quarter for the Cape of Good Hope is red with the female figure of Hope leaning on a rock and supporting an anchor,—all in white. The second quarter for Natal is gold with two black Wildebeesten at full gallop. The third for the Orange Free State is gold with a green orange tree and the fourth for a Transvaal is green charged with a white trek wagon.

Union of Soviet Socialist Republics

On a globe appear the hammer and sickle, above a sun,—surmounting this is a five-pointed star and a wreath surrounds the design.

United Kingdom of Great Britain and Northern Ireland

Quarterly, first and fourth quarters red with three golden lions for England; second quarter, the red lion rampant of Scotland on a golden

field; third quarter, the golden harp of Ireland on a blue field. The lions of England are believed to have first been used by Richard Coeur de Lion in the 12th Century. The lion of Scotland was first used by William the Lion about 1165. The harp of Ireland goes back to about the time of Queen Elizabeth. The supporters are the lion and the unicorn. A crown supporting a lion surmounts the shield.

United States of America

On a shield are the thirteen red and white strips of the flag, with a blue chief above. The shield is on the breast of an American eagle with the wings spread. In its right talon it holds an olive branch and in its left, a bundle of thirteen arrows. In its beak is a scroll with the motto "E. Pluribus Unum". Over the head of the eagle is a golden glory breaking through a cloud. In the center is a blue field with thirteen silver stars forming a constellation.

Uruguay

A quartered oval shield. First quarter, blue bearing the golden scales of Justice; the second, silver with a representation of the "Cerro" of Montevideo having a fortress on its summit (the symbol of power). The third quarter, silver with a horse (the symbol of Liberty and Freedom) while the fourth is blue charged with a golden bull as a symbol of wealth. A wreath of olive and laurel surrounds the shield and the sun with rays surmounts it.

Vatican City

The keys and triple crown of the Papal States in gold on a silver field.

Venezuela

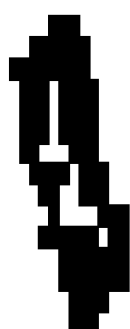
The name Venezuela "Little Venice" was originally given by Columbus to the Gulf of Macaraibo, where the settlements of the natives were built on piles in the water. The shield is divided into halves horizontally and the top half divided in two vertically. The left side is yellow with a sheaf of wheat in white, the right side is red bearing a tricolor and two crossed sword hilts. The base is blue charged with a white horse. The crest is formed by two horns of plenty.

Yemen

The flag shows a sword between five five-pointed stars.

Yugoslavia

A design with somewhat the same general wreath as the U.S.S.R., the star above and flames in the central part.



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